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Senate

The Senate met at 9:32 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, the Very Reverend Nathan Baxter, Dean, Washington National Cathedral, Washington, DC.

We are very pleased to have you with us.

PRAYER

The guest Chaplain, the Very Reverend Nathan Baxter, offered the following prayer:

Let us pray: Almighty, holy, and gracious God, we know You by many names, but we are joined together in this moment of prayer because we know You as the author of liberty. We thank You for the gift of democracy. Although it is sometimes cumbersome, it is truly inspired, and we thank You. Most of all, gracious God, we thank You for the Members of our United States Senate and their staffs who devote themselves to the hard and essential work of Government. Momentous for the people of this Nation are the decisions before them in this session. We ask You to give them courage to act rightly when partisan passions beckon; give them patience and discerning answers when truth is not clear; and give them faith to trust You as more than their judge but their loving Father. Now help us, Lord, as citizens of this Nation, to hold our leaders, their staffs, their work, and their families prayerfully in our hearts that they may be sustained and protected. And finally, ever keep before them and us the guiding light of Your divine vision of one Nation under God, indivisible, with liberty and justice for all. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PAT ROBERTS, a Senator from the State of Kansas, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Missouri is recognized.

SCHEDULE

Mr. BOND. Mr. President, today the Senate will have 10 minutes for final remarks on the Daschle motion regarding the Missouri River, with a vote to occur at approximately 9:40 a.m. Immediately following that vote, there will be a vote on the motion to proceed to H.R. 4444, the China PNTR legislation.

Following these votes, the Senate is expected to begin consideration of the China trade legislation with amendments in order. The Senate will also continue debate on the energy and water appropriations bill during this evening's session. It is hoped that action on this important spending bill can be completed as early as tonight. Therefore, Senators may expect votes throughout the day and into the evening.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4733, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4733) making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

Pending:

Domenici amendment No. 4032, to strike certain environment related provisions.

Schumer/Collins amendment No. 4033, to establish a Presidential Energy Commission to explore long- and short-term responses to domestic energy shortages in supply and severe spikes in energy prices.

Daschle (for Baucus) amendment No. 4081, to strike certain provisions relating to revision of the Missouri River Master Water Control Manual.

AMENDMENT NO. 4081

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the Daschle amendment No. 4081 on which there shall be 10 minutes of debate equally divided.

The distinguished Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I may use part of my leader time if my comments go over the 5 minutes. I ask that that be recognized should it be required.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, we are about to vote on an amendment that is critical not only for an important region of our country, the upper Midwest, but really the whole country. How we decide the process by which we make critical decisions about the ecological and environmental balance that must be taken into account as we consider all of the challenges we face with regard to proper management is really what is at stake here.

The Missouri River is one of the most important rivers of the country, but this could apply to the Mississippi River and to any one of a number of rivers throughout the country. Ultimately, it will be applied. You could say this is a very important precedent. A process has been created, enacted by this Congress, that allows very careful consideration of all the different factors that must be applied as we make

decisions with regard to management of a river, of wetlands, of anything else.

Basically what this amendment does is simply say, let that process go forward, without making any conclusion about what ultimately that process will lead to. If we ultimately decide that whatever process produced is wrong, we, as a Congress, have the opportunity to stop it. Why would we stop it midway? Why would we say today that we don't want that process to continue; we don't want it to reach its inevitable end with a product that we could look at for comment? That is the first point: a process is in place. The legislation currently within the energy and water bill stops that in its tracks.

I don't have it in front of me, but the report language makes it very clear. Senator BOND and others may argue that, no, this process can continue, but the effect of this amendment stops it in its tracks. We will not have an opportunity to carefully consider all of the recommendations given the language that is currently incorporated in the bill. We must not stop a process that allows us a result upon which we will then pass judgment.

The Missouri River is a very critical river. It is a multifaceted river that requires balance. The current management plan was written when the Presiding Officer and I, Senator BOND, and others were, at best, in our teens, if not in our early years of life. It was written in the 1950s and adopted in about 1960. It has been the plan for 40 years.

What the Corps of Engineers is now saying, what Fish and Wildlife is now saying is that after 40 years, prior to the time the dams were constructed, it is time to renew that manual; let's find another; let's take another look at it to determine whether or not what worked in the 1950s and 1960s is something that will work today. Their feeling is that it will not, that we need to upgrade it; we need to refresh it; we need to renew it.

Back when that manual was written, the anticipated amount of barge traffic was about 12 million tons. We never reached 12 million tons. We are down to about 1.5 million tons of barge traffic, totaling about $7 million.

We are spending $8 million in barge subsidies to support a $7 million industry. At the same time, we have an $85 million recreation industry. We have an incredible $667 billion hydropower industry. We have industries that are held captive, in large measure, because of a manual written in 1960 that anticipated barge traffic that never developed.

It is time to get real. It is time to allow the process to go forward. It is time to allow those agencies of the Federal Government, whose responsibility it is to manage this river, to do it without intervention. There will be plenty of time for us to take issue, to differ, to ultimately come to some other conclusion if that happens. But that is not now, especially given the recognition that the manual is out of date. The manual didn't produce the kind of result over four decades that was anticipated. Now it is time to change. That is all we are asking.

Let the process go forward. The President has said that unless this change is made, this bill will be vetoed. We are nearing the end of the session. If we want to guarantee that this is going to be wrapped up in an omnibus bill with absolutely no real opportunity for the Senate to have its voice heard, then the time to change it, so it can be signed, is now—not 4 weeks from now. I am very hopeful my colleagues will understand the importance of this question, the importance of this amendment. I am hopeful that, on a bipartisan basis, we can say let us allow the Corps, Fish and Wildlife, and the biological experts to do their work. Then let us look at that work and make our evaluation.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Missouri is recognized.

Mr. BOND. Mr. President, I yield myself 4 minutes and ask that I be advised when that is up so I may yield to my colleagues.

We have had a lot of argument about whether we ought to stop the process. That is not what is at issue. What is at issue is stopping flooding in downstream States, such as Missouri, Kansas, Iowa, Nebraska, and States down the Mississippi, and the implementation of a risky scheme. Section 103—and I am happy to show it to my colleagues—says none of the funds made available may be used to revise the manual to provide for an increase in the springtime water release during spring heavy rainfall and snowmelt in States that have rivers draining into the Missouri River below the Gavins Point Dam.

This same provision has been included in four previous energy and water bills in the last 5 years. It has been passed by this Congress and signed by the President. It clearly permits a review of alternatives to change river management. It only prevents one, single, specific harmful alternative of a controlled flood, which was proposed first in 1993, subjected to public review and comment by this Congress, and rejected by the administration when it was considered in 1994. The U.S. Department of Agriculture opposed it. The U.S. Department of Transportation opposed it. There was unanimous opinion on people who lived in and worked along the river. The officials there oppose this risky scheme. Now, 5 years later, the Fish and Wildlife Service wrote a letter on July 12 demanding that, as an interim step, a spring pulse come down the Missouri River starting in 2001.

This is supposed to help the habitat of the pallid sturgeon. But what it does is increase the spring rise, and the Missouri and Mississippi already have a spring rise. We get floods and we have damage that hurts land and facilities and kills people.

The people of Los Alamos know what happens when the Federal Government gave them a controlled burn. They are still wiping soot out of their hair. This is a proposal to give a controlled flood to areas where there is great risk. That is why the Democratic Governor of Missouri, the mayor of Kansas City, both Democrats, both oppose the motion to strike. They support section 103. We know it would curtail transportation, the most efficient and effective and environmentally friendly form of transportation of agricultural goods, and that is barge traffic. It would end barge traffic on the Missouri River, which I think may be the objective. Barge traffic not only gets product down the river to the world markets, but it keeps the cost of shipping under control by competition. It would harm transportation on the Mississippi River. That is why the Southern Governors' Association and waterways groups have come out in strong support of section 103.

Our State Department and Natural Resources Conservation Department oppose this risky scheme. They are dedicated to the recovery of the species. They have other alternatives that need to be and can be studied. The U.S. Geological Survey Environmental Research Center is looking at what we can do to increase the number of pallid sturgeon, and the likely objectives they have do not involve increasing floods in the spring.

Mr. President, I ask my colleagues to join me in rejecting this motion to strike because it puts lives at risk; it ends transportation for farmers.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. BOND. I yield that time to my colleague, the junior Senator from Missouri, Mr. ASHCROFT.

Mr. ASHCROFT. Mr. President, I thank the senior Senator from Missouri for taking point on this very important measure that will protect a livelihood and a set of very essential opportunities that exist in downstream States. To send a surge of water downstream in the spring, when we are already at risk of flooding, could hurt the capacity of our farmers to produce. And then to compound the injury and add the insult of making the shipping of what they produce difficult, or impossible, or not competitive, would be very damaging.

Over half of the people in my State of Missouri drink water from the Missouri River. We have come to rely on it as a resource. This doesn't detract from the overall ability to measure and evaluate what happens on the river. It simply says that prior to the plan we are not going to authorize a spring surge which would add flooding and jeopardize the livelihood of many individuals in Missouri and other States that border the Missouri River.

The PRESIDING OFFICER. The time of the Senator has expired.

The minority leader is recognized.

Mr. DASCHLE. Mr. President, I will use some leader time. I understand I have 8 minutes remaining. My colleagues can vote any way they wish, based upon the facts as presented. Let nobody be misled. This has nothing to do with flooding—nothing. This doesn't apply when there is flooding or when there are droughts. That is written right into the language of this new master manual proposal. It has nothing to do with flooding. This has to do with barge traffic. That is what this is about. It is about barge traffic.

Now, the Senator from Missouri talks about the importance of competition. How much competition is there when you have three-tenths of 1 percent of all agricultural transportation related to barge traffic and 99 percent is rail and highway? Is that competition? My colleagues are appropriately trying to defend a dying industry in Missouri, and they are using flood concerns to protect them. This is not about floods. This is about protecting three-tenths of 1 percent of all transportation for agriculture in the entire region. That is what this is about. Nothing more and nothing less.

I yield 2 minutes to the Senator from Montana.

Mr. BAUCUS. Mr. President, I reemphasize the first point made by my friend from South Dakota. He is entirely accurate. We hear about the specter of floods. If you look at the facts, this amendment has nothing to do with floods. Why do I say that? It is because of the Army Corps of Engineers' own analysis. Looking at the alternatives, the current master manual, compared with the spring rise/split season, there is no statistical, no difference—it is 1 percent—in the flood control benefits between the two alternatives. None. One percent is statistically insignificant.

So you hear on the floor those protecting a dying industry using another scare tactic, and that is floods. That is totally inaccurate. In addition, the proposal of the spring rise/split season will be used in only 1 out of every 3 years. And the proposal also provides that if it looks as if there might be a wet year, or more precipitation in the year a spring rise might otherwise occur, there would be no spring rise. Why? Because the primary goal of the Corps of Engineers is flood protection. Let's take that off the table; take flooding and the wall of water down the river off the table.

In the 1993 and 1997 flood years, if this proposal had been in effect, there would be no spring rise and no split season. It would not exacerbate the 1993 and 1997 floods.

In addition, if this amendment to strike 103 is not adopted, we will have a big lawsuit on our hands. Why? Because the environmentalists will file a lawsuit against the Army Corps of Engineers because of not protecting the Endangered Species Act. We would have a whole set of problems on our hands. Let's not have a lawsuit. Let's not have scare tactics for the sake of trying to protect a dying industry that need not be subsidized as it is now.

Mr. HAGEL. Mr. President, I rise today to speak in strong support of my colleague from Missouri, Mr. BOND.

The Bond provision of the fiscal year 2001 Energy and Water Appropriations bill would prohibit the U.S. Army Corps of Engineers from implementing the U.S. Fish and Wildlife Service plan to increase spring time releases of water from Missouri River dams to simulate the natural ''rise'' and ''fall'' in the Missouri River. This could be potentially devastating to Nebraska's farmers and ranchers and those whose livelihood depends on the Missouri River because the ''rise'' increases flood risk, and the ''fall'' interferes with barge traffic.

This ''spring rise'' that increases flood risks down the Missouri and the Mississippi is particularly irresponsible when you take into account that over the last two years, FEMA has spent $32.6 million in flood disaster for the Missouri River.

During the flood of 1993, the largest in recorded history, flood costs ranged between $12 and $16 billion. More importantly, main stem Missouri River Dams—the very ones Fish and Wildlife want to change—prevented $4 billion in damages.

If the amendment to strike the Bond provision from the Energy and Water Appropriations bill is successful, and this ''fall'' occurs, then there is a real potential that water levels are reduced to a point where barge traffic can't get through. Barge traffic is necessary to the farmer. It brings fertilizer up in the spring and brings the harvest to market in the fall. Senator BOND's amendment will ensure that water levels are kept at a navigable level.

This provision is not new to the Energy and Water Appropriations bill. It has been included in four previous appropriations measures that were signed into law by President Clinton. Now, President Clinton is threatening to veto this bill if it contains the Bond provision.

I urge my colleagues to keep the Bond provision in this appropriations bill and keep the Missouri River at a reasonable and steady level.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent for 2 additional minutes to respond to comments made by the distinguished minority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BOND. Mr. President, I thank the leader.

I just have to say when the point was made that this is not about flooding, that is what has people in Missouri scared to death. Floods don't happen every year. But when the floods happen, they are devastating.

That is why I want to read from a letter by the Democratic Governor, Mel Carnahan, of Missouri. In an August 17 letter he wrote to the White House trying to stop it, he said that absent change in the service as planned, it is likely efforts to restore endangered species along the river will be damaged and an increase in the risk of flooding river communities and agricultural land will occur; and, States along the river will suffer serious economic damage to their river-based transportation and agricultural industries.

When the Southern Governors Association wrote to the minority and majority leaders, Mike Huckabee, Governor of Arkansas, speaking for the southern Governors, said that if the current plan is implemented and these States incur significantly heavy rains during the rise, there is a real risk that farms and communities along the lower Missouri River will suffer serious flooding.

Frankly, nobody can tell when the heavy rains are coming. I have watched the National Weather Service. They do not know. They cannot predict the heavy rains and floods that have devastated our lands and killed people in recent years. They have come without warning. It takes 11 days for water to get from Gavins Point to St. Louis. They are not good enough. None of us is good enough to know when those heavy rains will occur.

I yield the floor. I thank my colleague from South Dakota.

Mr. DASCHLE. Mr. President, I know I have a couple of minutes remaining in leader time. Let me respond. I understand it is 5 minutes. I will not use all of it because I know we are about ready to go to a vote.

Let me just say that the distinguished senior Senator from Missouri knows what I know and what everyone should know prior to the time they are called upon to vote.

First of all, it is not a plan until it is adopted as a plan. But the Bond language would stop the plan from even going forward before we have had a chance to analyze what effect it would have on floods. But the proposal, which is all it is at this point, says we will exempt those years when there is a prospect for flooding. We will exempt the master manual from being utilized and implemented if a flood is imminent. We lop off the flooded years and the drought years. This plan is to be used only in those times when there is normal rain flow. That is really what we are talking about here.

But I go back to the point: Why stop this process from going forward before we know all the facts? Why stick our head in the sand before we really have the biological, ecological, and all of the managerial details?

That is what the language does. That isn't the way we ought to proceed. There will be time for us to oppose, if that may be the case. But not now, not halfway through the process. Let's allow this process to continue.

I yield the floor and the remainder of my time.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment, and the clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. MURKOWSKI) is necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—45

Baucus	Edwards	Levin
Bayh	Feingold	Mikulski
Biden	Feinstein	Miller
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Reid
Byrd	Johnson	Robb
Chafee, L.	Kennedy	Rockefeller
Cleland	Kerrey	Roth
Conrad	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

NAYS—52

Abraham	Gorton	McConnell
Allard	Gramm	Nickles
Ashcroft	Grams	Roberts
Bennett	Grassley	Santorum
Bond	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lincoln	Thurmond
Domenici	Lott	Voinovich
Enzi	Lugar	Warner
Fitzgerald	Mack	
Frist	McCain	

NOT VOTING—3

Akaka	Lieberman	Murkowski

The amendment (No. 4081) was rejected.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TO AUTHORIZE EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA—MOTION TO PROCEED —Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on the motion to proceed to the consideration of H.R. 4444, which the clerk will report.

The legislative clerk read as follows:

A motion to proceed to the bill (H.R. 4444) to authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China, and to establish a framework for relations between the United States and the People's Republic of China.

Mr. LOTT. Mr. President, I ask for the yeas and nays on the motion to proceed.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The motion under consideration is the motion to proceed to H.R. 4444 which the clerk has already reported, and the yeas and nays have been requested.

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. MURKOWSKI) is necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 5, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—92

Abraham	Feinstein	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Mikulski
Baucus	Gorton	Miller
Bayh	Graham	Moynihan
Bennett	Gramm	Murray
Biden	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Hagel	Robb
Breaux	Harkin	Roberts
Brownback	Hatch	Rockefeller
Bryan	Helms	Roth
Burns	Hollings	Santorum
Byrd	Hutchinson	Sarbanes
Chafee, L.	Hutchison	Schumer
Cleland	Inouye	Sessions
Cochran	Johnson	Shelby
Collins	Kennedy	Smith (OR)
Conrad	Kerrey	Snowe
Craig	Kerry	Specter
Crapo	Kohl	Stevens
Daschle	Kyl	Thomas
DeWine	Landrieu	Thompson
Dodd	Lautenberg	Thurmond
Domenici	Leahy	Torricelli
Dorgan	Levin	Voinovich
Durbin	Lincoln	Warner
Edwards	Lott	Wellstone
Enzi	Lugar	Wyden
Feingold	Mack	

NAYS—5

Bunning	Inhofe	Smith (NH)
Campbell	Jeffords	

NOT VOTING—3

Akaka	Lieberman	Murkowski

The motion was agreed to.

Mr. HAGEL. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I don't think we have reached an agreement on amendments yet. It is my intention to have some good, substantive debate on amendments. I have a number of amendments I want to bring to the floor. I certainly will agree to time limits on each of these amendments.

Mr. REID. If the Senator will yield, Senator MOYNIHAN has informed me that there has been an agreement reached between he and Senator ROTH and you, and that you would agree to 45 minutes on your side and they would agree to 20 minutes, with no second-degree amendments; is that right?

Mr. WELLSTONE. That is correct. It is not on paper yet, but I think that is what we will agree to.

Mr. REID. Can we agree to it right now?

Mr. WELLSTONE. No. There are a few things to be worked out first.

Mr. REID. I thank the Senator.

AMENDMENT NO. 4114

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. HELMS, proposes an amendment numbered 4114.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the President to certify to Congress that the People's Republic of China has taken certain actions with respect to ensuring religious freedom, as recommended by the United States Commission on International Religious Freedom)

On page 4, line 22, beginning with ''Prior'', strike all through page 5, line 6, and insert the following:

Prior to making the determination provided for in subsection (a)(1), the President shall transmit a report to Congress certifying that—

(1) pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999; and

(2) following the recommendations of the United States Commission on International Religious Freedom, the People's Republic of China has made substantial improvements in respect for religious freedom, as measured by the fact that—

(A) the People's Republic of China has agreed to open a high-level and continuing dialogue with the United States on religious-freedom issues;

(B) the People's Republic of China has ratified the International Convention on Civil and Political Rights, which it has signed;

(C) the People's Republic of China has agreed to permit the United States Commission on International Religious Freedom and international human rights organizations unhindered access to religious leaders, including those imprisoned, detained, or under house arrest;

(D) the People's Republic of China has responded to inquiries regarding persons who are imprisoned, detained, or under house arrest for reasons of religion or belief, or whose whereabouts are not known, although they were last seen in the custody of Chinese authorities; and

(E) the People's Republic of China has released from prison all persons incarcerated because of their religion or beliefs.

On page 5, line 10, strike ''section 101(a)'' and insert ''section 101''.

Mr. WELLSTONE. Mr. President, first, I say to colleagues that if I was not on the floor right now, I would be in the Foreign Relations Committee. Senator BROWNBACK is conducting some hearings that deal with religious freedom in China. This amendment also deals with the same question.

I rise today, Democrats and Republicans, to offer an amendment. I offer this amendment with Senator HELMS of North Carolina. I believe later on Senator FEINGOLD is going to want to be added as a cosponsor.

This amendment will prove that our country cares deeply about religious freedom and our country is not indifferent to the suffering of millions of Chinese who face religious persecution. Respect for religious liberty goes to the heart of American values. We cannot say that we are deeply committed to human rights and that we are deeply committed to religious freedom and then remain silent as we witness China's abuse of both of these rights.

Two years ago, in a 98–0 vote, the Senate overwhelmingly passed the International Religious Freedom Act, which created the Commission on International Religious Freedom. Congress instructed that the Commission make recommendations to us when it comes to how, through our foreign policy, we could promote international religious freedoms. It took this mandate seriously. After a year-long investigation, the Commission—and this is the report of the U.S. Commission on International Religious Freedom, which was issued May 1, 2000—found that ''The government of China and the Communist Party of China discriminates, harasses, incarcerates, and tortures people on the basis of their religion and beliefs.''

My amendment follows verbatim the Commission's recommendation. It was the recommendation of this Commission, which we established by a 98–0 vote, to delay PNTR until China made ''substantial'' improvements in allowing its people the freedom to worship as measured by several concrete benchmarks.

People who believe in religious freedom have long understood a basic truth—that America, our country, can never be indifferent to religious persecution. When others are hounded or persecuted for their religious beliefs, we are diminished by our own failure to act or speak out. But when we embrace the cause of religious freedom, we reaffirm one of the great values of American democracy.

This legislation and this administration is focused on trade, which it is now promoting as a human rights policy. But trade alone will never guarantee change. This report, which I am going to read in a moment, on religious persecution in China issued just this year is brutal. The State Department issued its report on international religious freedom.

Senators cannot turn their gaze away from this unpleasant truth. They talk about a tremendous amount of persecution in China.

We have now had two reports by the State Department on human rights which have not reported great improvement. This past year, the State Department report on human rights abuses talked about a brutal climate in China. We cannot reward China with PNTR while it continues to harass and jail people because of their religious beliefs.

Just yesterday, the Washington Post reported that China has indicted 85 members of a Christian sect in a followup to the recent retention of 130 of its members and the expulsion of 3 American missionaries.

With passage of PNTR, the United States of America gives up our annual right of review of China's most favored nation trade privileges as well as our bilateral trade remedy. We have not used this leverage as effectively as we should. But do we want to give up all of this leverage? Do we want to say we do not take into account this religious persecution in China and we will no longer annually review trade relations to maintain some leverage and some voice in support of the right of people in China to practice their religious beliefs?

During the debate on the International Religious Freedom Act, many of my colleagues made impassioned speeches that U.S. foreign policy should never ignore the importance of this fundamental right of people to be able to practice their religion and not be persecuted in our dealings with other countries. In fact, Congress instructed the Commission to make recommendations to ensure that American foreign policy promotes international religious freedom.

That is what this amendment is about.

The Commission's members—because I am going in a moment to mirror their recommendations, which is what this amendment basically reflects—are drawn from both parties and represent extremely diverse points of view, including, by the way, the members of this Commission as strong proponents of free trade. Its members include Elliot Abrams, former assistant to President Ronald Reagan; John Bolton of the American Enterprise Institute; Rev. Theodore McCarrick, the Archbishop of Newark; Nina Shea of Freedom House; and Rabbi David Sapperstein, director of the Religious Action Center for Reform Judaism.

Despite the Commission's extraordinary diversity, its members unanimously agreed on no PNTR for China. We voted 98–0 for this legislation. We established this Commission. We asked this Commission to present to us recommendations about how we could promote religious freedom. The Commission took this mandate seriously. I want to just quote from this Commission's report. Its members unanimously agreed that we should vote no on PNTR for China.

Given the sharp deterioration in freedom of religion in China during the last year, the Commission believes an unconditional grant of PNTR at this moment may be taken as a signal of American indifference to religious freedom.

We are just asking in our amendment that Democrats and Republicans go on record as not being indifferent when it comes to the question of religious freedom.

I will explain my amendment in a moment. I see my colleague, Senator HELMS, on the floor. I yield to the Senator from North Carolina and ask unanimous consent that I be able to follow him.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my remarks from my desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair. I thank the Senator from Minnesota.

Mr. President, around this place we customarily say in a case such as this that we are ''pleased'' to support an amendment. I am honored to support this amendment, and I am honored to cosponsor it with my friend from Minnesota. In this case, we both have the same conviction about what our Government and our country ought to do before granting permanent normal trade relations to China.

I am sure Senator WELLSTONE has made it clear, but for the purpose of emphasis, this amendment directs the President, if China has indeed met a series of religious freedom conditions, to certify such before granting permanent normal trade relations with China.

This amendment really tells China—and, just as importantly, the rest of the world—that we in America still stand for something, something other than profits, something other than whatever benefit may be imagined by the steps the President is trying to take with China.

In this case, we are saying we don't believe China should be welcomed into international organizations such as the WTO while China continues to repress, to jail, to murder, and to torture their own citizens simply because those citizens have dared to exercise their faith.

Let me quote a passage from the Clinton State Department's own report on religious freedom that was delivered to the Congress of the United States just this past week. This is the State Department:

In 1999, the Chinese government's respect for religious freedom deteriorated markedly.

The question is, Are we going to stand here today and ignore this, knowing that China abuses, mistreats, and murders its own people? Are we going to ignore the crackdown on

Christians that began just last week, during which three Americans—Americans, let me emphasize—were arrested by the Communist Chinese?

Other crimes against religious believers in China abound. In the past couple of years, China has intensified its so-called patriotic reeducation campaign aimed at destroying Tibetan culture and religion. Similar horror stories are taking place in the Muslim northwest where the Chinese Government is smashing, destroying, and stomping anybody who attempts to display any kind of ethnic or true religious identity.

It is naive to believe these abuses will be dealt with by the Commission set up by this legislation. I hope I live long enough to see it happen. I will surpass, I believe, I fear, Senator THURMOND in age before that happens or, more precisely, until hell freezes over because it is not going to happen, not in the lifetime of anybody in this Chamber.

The example of the recently created Commission on Religious Freedom is very instructive. After dramatically cataloging the barbaric crackdown on religious freedom in China, the Commission recommended—how do you like them apples?—that permanent normal trade relations not be granted to China at this time. But nobody pays any attention, similar to a train passing in the night.

Here we are today, ready to toss all of those findings, all of the things we know are going on, and say we ought to do it. Not with my vote, Mr. President; not with my vote. That is why we must insist that progress on religious freedom precede China's entry into the WTO. That is precisely what this amendment does. I urge its adoption. I commend the Senator from Minnesota for sponsoring it.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague from North Carolina. Mr. President, so that all Senators will know what this amendment does, let me be very precise about it. I look forward to hearing a response from my colleague from Nebraska.

It tracks the recommendations of the Commission on Religious Freedom precisely, that the U.S. Congress should grant PNTR, the Commission said, only after China makes substantial improvements with respect to freedom of religion as measured by the following standards, which I think are not unreasonable:

(A) China agrees to establish a high level and ongoing dialog with the U.S. Government on religious freedom issues; (B) China agrees to ratify the International Covenant on Civil and Political Rights which it signed in 1998; (C) China agrees to permit unhindered access to religious leaders, including those imprisoned, detained, or under house arrest by the U.S. commission on international freedom and other human rights organizations; (D) China provides a detailed response to inquiries regarding a number of persons who were imprisoned, detained, or under house arrest for reasons of religion or belief, or whose whereabouts are not known but who were last seen in the custody of Chinese authorities. And, finally, China has made substantial progress in releasing from prison all persons incarcerated for religious reasons.

This amendment is basically the recommendations of the report on the U.S. Commission on International Religious Freedom. The Commission settled on these reasonable conditions after an intensive investigation where they met with Government officials, bishops, monks, and members of house churches in China. Its report extensively documents abuses against Christians, Muslims, Buddhists, and others in China.

Let me give my colleagues a few examples. I start with Christians. The Commission found that the Chinese Government has engaged in crackdowns on the Protestant house church movement and Catholics loyal to the Vatican. Last week, Chinese authorities arrested over 130 Evangelical Christians, including 3 Americans, for holding a revival meeting. Further, Chinese authorities detained scores of Protestant worshipers and detained, beat, and fined unknown underground Catholics in Hebei Province last year. In recent months, many Catholic clergy loyal to the Vatican have also been detained. One young bishop was detained while performing an unauthorized mass. He was found dead on the street in Beijing shortly after being released from detention. The Vatican reports that five churches built without the Chinese Government's authorization were torn down, and another 15 were destroyed in Fujian Province.

While harsh prison sentences and violence against religious activists continue, state control, increasingly, takes the form of the registration process. This is the way the Government monitors membership in religious organizations, locations of meetings, selection of clergy, and content of publications. If religious members do not register, they can be fined, their property seized, and sometimes they are detained. Again, I am just summarizing the reports that are before the Senate.

Muslims: The Government has also carried out a major purge of local officials in heavily populated Muslim areas and targeted ''underground'' Muslim religious activities. The Government has banned the construction or renovation of 133 mosques, and arrested scores of Muslim religious dissidents.

In Xinjiang, Muslims holding positions in the Government who continue to practice Islam have lost their jobs. Local newspapers report that authorities were moving village by village, hamlet by hamlet, to clean up illegal religious activity. Religious teachers and students at unregistered schools have been detained, and they have been sent to reeducation through labor camps. Conditions in Xinjiang labor camps are said to be the most horrific in China. Brutality and hunger are common, some inmates simply disappear. As in other areas in China, officials have launched an indepth ''atheist education'' campaign. As in Tibet, access to information is severely restricted.

These are the reports before the Senate. And we are going to say that we will not speak out, and we are not going to at least ask China to comply with minimum standards of decency when it comes to ending this religious persecution before we automatically renew trade relations?

Now to Tibetans. Prior to the Chinese invasion in 1950, Tibet was a country steeped in religion. Religious practice was central to the identity and the lives of Tibetan people. Recognizing the power of religion in Tibetan life, the Chinese have attempted to destroy this cultural base, to quell dissent with authoritarian rule. Over 6,000 monasteries and sacred places have been destroyed by the Chinese over the last 40 years. Today in Tibet, human rights conditions remain grim. Tibetan religious activists face ''disappearance'' or incommunicado detention, long prison sentences, and brutal treatment in custody. We are going to be silent about this?

In addition, a Government-orchestrated campaign against the Dalai Lama continues. The campaign includes a reeducation program for monks and nuns which the government has spread widely. In one county, for example, monks were locked in their rooms for over 3 weeks for their refusal to denounce the Dalai Lama. In another region, over 120 resident nuns were expelled from their monasteries.

In an action denounced by the Dalai Lama, the Beijing government picked a boy as the reincarnation of the Panchen Lama. This is the latest campaign by the Chinese government to control the future of their religion. In 1995, the Dalai Lama identified another Tibetan boy as the reincarnate Panchen Lama. The Chinese government immediately denounced the Dalai Lama's choice, arrested the boy and his family, and pushed their choice. Chinese authorities continue to hold the Panchen Lama—the world's youngest political prisoner—at a secret location and have refused all requests to visit him by official and unofficial foreign delegations.

As the Commission declared:

> The Chinese government has no more authority under Tibetan Buddhism to select reincarnated lamas than they do to select bishops under Roman Catholicism.

The Karmapa Lama, a young Tibetan man, who was groomed by the Chinese for their own political purposes recently fled his monastery and his Chinese guards for life in exile in India. He had been used cynically by the Chinese as a symbol of religious freedom, yet

was unable to receive instruction by religious tutors as required by Tibetan tradition. Earlier this year, the young leader said:

Tibet has suffered great losses. Tibetan religion and culture have reached the point of complete destruction.

And we do not take that into account with this legislation? We do not even want to go on record supporting religious freedom?

China's excesses can be felt even closer to home as witnessed this past week in New York. On August 28th, more than 1,000 religious leaders from around the world attended the Millennium Peace Summit, a conference organized under the authority of the United Nations. Because of pressure from the Chinese government, the Dalai Lama, spiritual leader of Tibetan Buddhists and winner of the Nobel Peace Price, was conspicuously not invited. U.N. officials and China's own diplomats told conference organizers that China would oppose any appearance in the U.N. General Assembly chamber by the leader of Tibet's 15 million Buddhists.

By the way, I note that Ms. Jiang, from the Qi Gong movement, and Mr. Harry Wu—and I will have an amendment on prison labor—I think is somewhere here in the gallery during this debate.

Perhaps the most egregious example of the PRC government's contempt for the rights of its own citizens has been the unrelenting campaign of repression against practitioners and defenders of Falun Gong, a popular practice of meditation and exercises.

According to international news media reports, at least 50,000 Falun Gong practitioners have been arrested and detained, more than 5,000 have been sentenced to labor camps without trial, 400 have been incarcerated in psychiatric facilities, and over 500 have received prison sentences in cursory show trials. Detainees are often tortured and at least 33 practitioners have died in government custody. Every day there is a report in the New York Times about these abuses in China. Are we just going to ignore all of this?

Consider, for instance, the death of Chen Zixiu, a 58-year-old retired autoworker, who was killed by torture at the hands of Beijing officers when she was unable to pay the fire for her jail time. As described in the Wall Street Journal:

The day before Chen died, her captors again demanded that she renounce her faith in Falun Gong. Barely conscious after repeated jolts from a cattle prod, the 58-year-old stubbornly shook her head. Enraged, the local officials ordered Ms. Chen to run barefoot in the snow. Two days of torture had left her legs bruised and her short black hair matted with pus and blood, said cellmates and other prisoners who witnessed the incident. She crawled outside, vomited, and collapsed. She never regained consciousness.

Furthermore, over 600 Falun Gong practitioners have reportedly been committed to mental hospitals, where they have been mistreated with injections, sedatives, anti-psychotics, as well as electric shocks. State doctors are misusing the practice of psychiatry against political dissidents, as in the practice of ''Soviet psychiatry.'' That was the country from which my father fled persecutions. The Washington Post recently reported on a computer engineer and a Falun Gong practitioner who died after spending a week in a mental hospital where doctors injected him, twice daily, with an unknown substance that made him lose mobility and finally led to heart failure.

This man suffered extreme mistreatment simply for peacefully exercising their beliefs, a right recognized by the United Nations Declaration of Human Rights and guaranteed by China's own Constitution. It is particularly disturbing that Chinese officials have publicly defended these atrocities on the spurious ground that Falun Gong is allegedly destabilizing the country. Beijing has made similar statements about Christian ''house churches'' that refuse to submit to government oversight and direction.

As Rabbi David Sapperstein, the former Chairman of the United States Commission on International Religious Freedom, he said:

Falun Gong has almost become the symbol for the struggle for religious freedom. And when thousands and thousands of people have been arrested, imprisoned, tortured, when people have died in prison, it is impossible for countries to say they are deeply committed to human rights and remain silent. And that is why we have urged the United States government to speak out.

Please let me repeat that:

And when thousands and thousands of people, Rabbi David Sapperstein goes on to say ''have been arrested, imprisoned, tortured, when people have died in prison, it is impossible for countries to say that they are deeply committed to human rights and remain silent. And that is why we have urged the U.S. government to speak out.

In conclusion, I urge my colleagues to support this amendment. It will show that the U.S. Senate does not just pay lip service to the importance of religious freedom, and that it supports the right of millions of Chinese to practice their faiths in peace and without persecution. My amendment is the least we can do. China should not be awarded PNTR now while it continues to arrest Christians, torture Muslims, and hound Tibetans—all because they refuse to renounce their beliefs.

This is a vote on religious freedom. This is a vote about our commitment to it. I do feel strongly about this, given my own background and what my family went through in another country, Russia. But I also want to say to colleagues that it is, in my view, not acceptable to vote ''no''; to vote against this amendment or to table this amendment with the argument being: But if we pass an amendment we would have to go to conference committee. Try telling that to people back home.

To me this is the ultimate insider's argument: We cannot support an amendment that supports religious freedom because then the bill we passed would be in a different form than the House bill, and it would have to go to conference committee.

People are not going to be persuaded by that argument. People want us to vote for what we think is right, and that is what we should do. I say to Senators, I personally believe it is a bogus argument. Every Senator in this Chamber knows that if we are serious about passing legislation—I have not been involved in a strategy of delay. I know we are going to have the debate, and I know the legislation is going to pass. But if we want to pass the legislation, there are all sorts of precedents.

We will get it to conference committee, and we will get it right out of conference committee and pass it. We can put it into an omnibus Appropriations Committee report. There are many ways this legislation can be passed, and I do not believe Senators should be able to say: No, we are not going to vote for this amendment that deals with religious persecution because we do not want this legislation to go to conference committee.

This legislation can go to conference committee, come out of conference committee, and it can pass. I hope my colleagues will vote for this amendment.

I reserve the remainder of my time. I know we are not under a UC agreement, but I will take a few more minutes to respond later.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, if the other side is prepared to enter into time agreements, this side is as well.

I ask unanimous consent that when the Senate considers the following amendments, they be considered under the following debate times prior to votes in relation to these amendments:

Wellstone, international religious freedom;

Wellstone, human rights conditions;

Wellstone, prison labor;

Wellstone, right to organize;

Wellstone, persecution of union organizers.

Further, with respect to each amendment, there be 45 minutes under the control of Senator WELLSTONE and 20 minutes under the control of Senator ROTH, or his designee. Finally, I ask unanimous consent that no amendments be in order to the amendments prior to a vote in relation to the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I thank my colleague. That is more than a reasonable way to proceed. I say to my colleague from Nebraska before he responds, so we can move forward in an expeditious way, I will be prepared when I get the floor to lay my amendments out and then lay them aside so other Senators can offer amendments.

Mr. HAGEL. Mr. President, in response to my friend and colleague, the

Senator from Minnesota, on his first amendment regarding religious persecution, my opposition to his amendment is not because I believe there is religious freedom in China. Clearly, there is not. I believe every one of the Members of this body understands that as well. It is my opinion that if we adopt this amendment, it will have the opposite effect desired by its sponsors.

The issue is: How do we best influence the behavior of China on human rights? I believe if we kill permanent normal trade relations with China, it will not be in the best interest of human rights in China.

I share my colleague's concern, as do each of our colleagues in this body, about the repression of citizens' rights in China. Again, the question is, How do we best influence that behavior? How do we best deal with it?

I believe, as well intentioned as this amendment is, that it is misguided and that it will kill, if adopted, this bill. If this amendment is adopted, effectively it will kill permanent normal trade relations this year and have an influence, I suspect, on this bill into next year.

As my colleague has pointed out, if any amendment is attached to permanent normal trade relations, then it will go back to the House for another vote, we will have a conference. Then I believe because of time, if for no other reason, we will have no permanent normal trade relations with China.

One of the most dynamic challenges of our time is America's relationship with China. This challenge represents opportunity and uncertainty for both nations. How the U.S.-China relationship unfolds will have immense consequences for the world and human rights. It is my opinion that it is in the best interests of America, China, and the world that America engage this relationship in every way on every field.

Trade surely is a common denominator for the future of the world. We must encourage China's entrance into the World Trade Organization, and we should grant China PNTR. We must do this certainly, obviously, with a very clear eye to the understanding of the limitations, the challenges, and the realities of this relationship with China. We have an opportunity to move this relationship along a track with positive growth, potential possibilities, and for a future that is far brighter than the future that now exists in China. History will judge us harshly if we squander this opportunity.

China is currently positioned to be admitted to the WTO, the 135-member international organization that works to break down trade barriers and foster free and fair trade among member countries. Once it becomes a member of the WTO, China must implement far-reaching domestic economic reforms, eliminate trade barriers, and strengthen its laws governing domestic business practices, environmental practices, and, yes, human rights is part of that. Human rights is part of that dynamic.

These changes will set China on the road toward becoming a responsible member of the international community. This is clearly in our national interest, it is clearly in the interest of the world, and it is clearly in the interest of human rights in China.

This debate is not only about trade. Far from it. It is much more than trade. For China's future, it must implement the reforms that WTO membership requires, yes, if its economy is to continue to grow and hundreds of millions of Chinese are to be lifted out of abject poverty and hunger.

As nations prosper, the world becomes more peaceful and free. When there is freedom, peace, and prosperity, there is less conflict, less poverty, less hunger, and, yes, less war. That is in the interest of all peoples.

I believe China's membership in the WTO will have a positive influence on human rights in China. Like people everywhere, the Chinese people want more control over their personal lives, more freedom, more rights. They want more control over their own destinies. People who are poor have little power.

Membership in the WTO will, in the long run, increase the prosperity of the Chinese people. The reforms required by WTO membership will strengthen China's economy which will create jobs and boost standards of living, as it does elsewhere in the world, and bring more personal freedom. This is critical if the Chinese people are to lift themselves out of poverty and begin to gain more control over their own destinies.

That is a major reason why Taiwan supports China's accession to the WTO. Martin Lee, leader of Hong Kong's democratic party and outspoken critic of China's Government, also supports China's membership in the WTO, as does, in fact, the Dalai Lama, as do many of China's most prominent human rights activists.

On May 23 of this year, the House of Representatives voted to grant China PNTR status. The Senate should do the same. If Congress grants China PNTR, American businesses and agricultural producers will be able to compete in every segment of the Chinese market.

If Congress fails to pass the Chinese PNTR legislation, we will lock ourselves out of the world's largest and fastest growing market, while our European and Japanese competitors rush in to fill the vacuum. That makes no sense. What sense does that make? How are we influencing the behavior of the Chinese Government? How are we improving human relations and religious freedoms in China when we walk away from China?

One of the main benefits of China's membership in the WTO will be the mandatory reduction of its tariffs on agricultural products, as well as all goods and services. These changes, combined with PNTR for China, will enable America's agricultural producers to tap further and deeper into this huge potential market. Agricultural producers, manufacturers, and service providers will be free to select partners, marketers, buyers, and distributors in China, instead of being forced to go through state-owned trading companies or middlemen.

The Chinese will also have to eliminate export subsidies for their agricultural and other products as well as import barriers such as quarantine and sanitary standards that are not based on sound science. And if the Chinese do not comply with their commitments under the agreement, the United States can petition the WTO to force them to do so. There will be strong economic and political incentives in place to encourage Chinese compliance.

Our markets have long been open to China. Now it is their turn to open their markets to us. We have signed a bilateral trade agreement with China that effectively levels the playing field for the first time ever. But if we do not grant PNTR to China, then all the hard-won concessions in our trade agreement will not apply to the United States; however, they will apply to all other WTO members who do grant PNTR to China. That would represent a tremendous loss and mindless disservice to American businesses, farmers, and workers. And, yes, I say again, what effect would this have on improving rights and improving the Chinese behavior toward those rights and toward their own people?

It is important to the world and to the Chinese people that China become integrated in the global trading system. China's economy will open more quickly to foreign exports and investments, increasing the interaction of the people of China with the rest of the world and increasing their standard of living and potential for more freedom.

These developments will have a positive effect on all human rights in China, provide growth opportunities to American businesses and farmers and workers, and help stabilize a very important region of the world.

This issue has serious geopolitical and, surely, national security interests attached to it for both America and the world, as well as trade and economic interests. They are all interconnected. We must be wise enough to understand this interwoven dynamic and act on it. When nations are trading with each other, they are rarely sending their armies against each other. These are common denominator self-interests for all nations, for all peoples.

China's membership in the WTO and Congress' granting of PNTR are clearly in the best interests of, yes, America, and I believe in the best interests of China, the people of China, and the world. I strongly encourage my colleagues to vote for this bill and oppose all amendments to it.

I add one last point. It is not a matter, I say to the good Senator from Minnesota, of this body or of this Nation or of our people looking the other way when it comes to human rights violations in China. We are not looking the other way. We are finding a course

that some of us believe is the correct course to influence the behavior of China. It is for that reason that I shall support this bill and oppose all amendments.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. REID. Will the Senator yield for a unanimous consent request?

Mr. WELLSTONE. I am pleased to yield.

Mr. REID. Mr. President, I ask unanimous consent that following the vote on the Wellstone amendment that is now pending Senator BYRD be allowed to offer the next amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me, first of all, say to the Senator from Nebraska and to other Senators, that I appreciate what he said, although I think some of my colleagues' remarks were more general remarks about the overall trade agreement. I will try to respond to a little bit of that. But I don't want Senators to get away from what this amendment is about and this vote.

By a 98–0 vote, we supported the International Religious Freedom Act. We said that we were concerned about promoting religious freedom throughout the world. This legislation called for a commission to be set up, called the U.S. Commission on International Religious Freedom, to make recommendations to us about how we could promote religious freedom throughout the world.

This Commission has come up with a recommendation about China. What this Commission has said—a Commission with extraordinary diversity; some of its members for PNTR, other members against it; some of its members Republican, some of its members Democrat; some of its members Christian, Jewish, you name it—and I quote:

> Given the sharp deterioration in freedom of religion in China during the last year, the Commission believes an unconditional grant of PNTR at this moment may be taken as a signal of American indifference to religious freedom.

That is what this amendment is about. That is what this vote is about. This amendment mirrors the recommendations of this Commission.

This amendment does not say that we should not trade with China. This amendment does not say that we should isolate China. This amendment does not say that we should not continue to have economic relations with China. This amendment does not say we should boycott China. This amendment is not a China-bashing amendment. This amendment goes to the very heart of what we say we are about as a country and what we are about as a Senate.

All this amendment says is that before we finally sign off on PNTR, before we automatically renew normal trade relations—or what we used to call most favored nation status—with China, let's at least call upon China to live up to the following standards: China will agree to establish a high-level and ongoing dialog with the U.S. Government on religious freedom issues; China will agree to ratify the International Covenant on Civil and Political Rights, which it signed in 1998; China will agree on unhindered access to religious leaders, including those who have been imprisoned; China will give us a detailed response to inquiries about a number of people who have been in prison or detained or whose whereabouts are not known; and China will show they have made substantial progress in releasing from prison all persons incarcerated for religious reasons.

This amendment does not say we do not trade with China. This amendment does not say we do not have economic relations with China. This amendment just says that we ought to, in this trade agreement, not just focus on the ''almighty'' dollar. By the way, we will have this debate tomorrow.

I said yesterday—and I know other Senators will say it—my colleague from Nebraska talks about all these exports. I want to tell you, we are going to see a lot more investment, not necessarily more exports. When I hear my colleague from Nebraska describe what is freedom in China, and what is going to go on, I can't figure out exactly what he is trying to get at. We have these two reports on the brutal treatment of people.

I just spent 30 or 40 minutes giving examples of the persecution in China. We have the State Department report on human rights abuses. We have all the human rights organizations reports. We just want to say no, that doesn't matter? We don't want to take this into account at all? We don't want to at least pass an amendment that says yes to normal trade relations, but, China, you must at least live up to these elementary conditions, this sort of basic definition of decency? We don't wanted to go on record supporting that?

We have U.S. companies going to China right now, and they are paying 3 cents an hour. We have people working from 8 in the morning until 10 at night, with maybe a half an hour off from work, under deplorable, horrible working conditions. If they should dare to try to organize a union, they wind up in prison serving 3- to 8-year sentences. I hear from my colleagues we are all concerned about freedom. The evidence just does not support that.

Let me be clear by way of summary: This amendment I have introduced—cosponsored by Senator HELMS and, I believe, Senator FEINGOLD—says we are going to take seriously the International Freedom Act that we passed, we are going to take seriously the recommendations of this report, we are going to say there will be normal trade relations, but the Chinese Government does have to live up to these standards; we are not going to be indifferent to the religious persecution that is taking place in this country.

If this report had not come out by the U.S. Commission on International Religious Freedom, if the State Department had not come out with a report saying it is brutal what is happening to people—Christians, Muslims, Catholics, you name it—then I wouldn't have this amendment. But this is the evidence that is staring us in the face.

The amendment I have introduced calls upon the Senate not to be silent on this question. I know all about some of the companies that have all of their ideas about investment. I know the ways in which they are going to make China an export platform, where they can pay people miserably low wages and then send products back to our country. They are doing that right now. I understand all of the economic power behind this. But I ask my colleagues, are there not other values that matter to us? How about religious freedom?

Again, I say to my colleague from Nebraska, this isn't about whether or not this bill will pass. That is not a legitimate excuse to vote against this amendment. If you feel strongly about religious persecution and you do not want to be indifferent, then you should support this amendment. If we pass this amendment and this bill goes to conference committee, then it will be rereported out of conference committee. And if there is the will to pass this and there is overwhelming support for establishing normal trade relations with China without annual review, it will pass. Everyone knows that. Don't use that as an excuse. Just vote for what you think is right.

Don't go home to the coffee shops in your State and say: Well, yes, I think these reports about persecution of people were terrible. I certainly didn't want the Senate to be indifferent, and I didn't want to communicate a message to the Chinese Government that all we care about is the economics, we don't care about these issues. The thing of it is, I couldn't vote for this amendment because if I voted for this amendment, then the bill wouldn't have been passed in the same form in the House and the Senate. And then it would have had to go to conference committee, and that would have meant there would be some delay. I didn't want there to be any delay.

People's eyes will glaze over. They will look at you, and they will say: Why don't you just vote for what you think is right or wrong. Don't give us this insider talk which, by the way, is not so persuasive.

We could pass this bill in any number of different ways with this amendment. I hope my colleagues will support it.

AMENDMENTS NOS. 4118 THROUGH 4121, EN BLOC

Mr. WELLSTONE. Mr. President, I know Senator BYRD has some amendments. What I will do is send up my

other amendments and ask for their consideration. Then I will lay them aside so other colleagues may introduce their amendments. I send my other four amendments to the desk en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be reported and laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes amendments Nos. 4118 through 4121 en bloc.

The amendments are as follows:

AMENDMENT NO. 4118

(Purpose: To require the President to certify to Congress that the People's Republic of China has taken certain actions with respect to ensuring human rights protection)

On page 4, line 22, beginning with ''Prior'' strike all through page 5, line 12, and insert the following:

Prior to making the determination provided for in subsection (a)(1), the President shall transmit a report to Congress certifying that—

(1) pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999;

(2) the People's Republic of China has ratified the International Covenant on Civil and Political Rights, signed in October 1998, and that the Covenant has entered into force and effect with respect to the People's Republic of China;

(3) the People's Republic of China has begun to dismantle its system of reeducation through labor, which allows officials of the People's Republic of China to sentence thousands of citizens to labor camps each year without judicial review;

(4) the People's Republic of China has opened up Tibet and Xinjiang to regular, unhindered access by United Nations human rights and humanitarian agencies, foreign journalists, diplomats, and independent human rights monitors;

(5) the People's Republic of China has reviewed the sentences of those people it has incarcerated as counterrevolutionaries under the provisions of a law that was repealed in March 1997 and the People's Republic of China intends to release those people;

(6) the People's Republic of China has agreed to establish a high-level and ongoing dialogue with the United States on religious freedom; and

(7) the leadership of the People's Republic of China has entered into a meaningful dialogue with the Dalai Lama or his representatives.

SEC. 102. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.—The extension of nondiscriminatory treatment pursuant to section 101 shall be effective no earlier than the effective date of the accession of the People's Republic of China to the World Trade Organization.

AMENDMENT NO. 4119

(Purpose: To require the President certify to Congress that the People's Republic of China is in compliance with certain Memoranda of Understanding regarding prohibition on import and export of prison labor products and for other purposes)

On page 4, line 22, beginning with ''Prior'', strike all through page 5, line 12, and insert the following:

Prior to making the determination provided for in subsection (a)(1), the President shall transmit a report to Congress certifying that—

(1) pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999;

(2) the People's Republic of China is complying with the Memorandum of Understanding Between the United States and the People's Republic of China on Prohibiting Import and Export Trade in Prison Labor Products, signed on August 7, 1992;

(3) the People's Republic of China is complying with the Statement of Cooperation on the Memorandum of Understanding Between the United States and the People's Republic of China on Prohibiting Import and Export Trade in Prison Labor Products, signed on March 14, 1994; and

(4) the People's Republic of China is fully cooperating with all outstanding requests made by the United States for visitation or investigation pursuant to the Memorandum referred to in paragraph (2) and the Statement of Cooperation referred to in paragraph (3), including requests for visitations or investigation of facilities considered ''reeducation through labor'' facilities.

SEC. 102. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.—The extension of nondiscriminatory treatment pursuant to section 101 shall be effective no earlier than the effective date of the accession of the People's Republic of China to the World Trade Organization.

AMENDMENT NO. 4120

(Purpose: To require that the President certify to Congress that the People's Republic of China has responded to inquiries regarding certain people who have been detained or imprisoned and has made substantial progress in releasing from prison people incarcerated for organizing independent trade unions)

On page 4, line 22, beginning with ''Prior'', strike all through page 5, line 12, and insert the following:

Prior to making the determination provided for in subsection (a)(1), the President shall transmit a report to Congress certifying that—

(1) pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999;

(2) the People's Republic of China has provided a detailed response to inquiries regarding the number of persons who are imprisoned, detained, or under house arrest because of union organizing; and

(3) the People's Republic of China has made substantial progress in releasing from prison all persons incarcerated for organizing independent trade unions.

SEC. 102. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.—The extension of nondiscriminatory treatment pursuant to section 101 shall be effective no earlier than the effective date of the accession of the People's Republic of China to the World Trade Organization.

AMENDMENT NO. 4121

(Purpose: To strengthen the rights of workers to associate, organize and strike, and for other purposes)

At the end of the bill, add the following:

TITLE VIII—WORKER RIGHTS

SEC. 801. SHORT TITLE.

This title may be cited as the ''Right to Organize Act of 2000''.

SEC. 802. EMPLOYER AND LABOR ORGANIZATIONS PRESENTATIONS.

Section 8(c) of the National Labor Relations Act (29 U.S.C. 158(c)) is amended—

(1) by inserting ''(1)'' after the subsection designation; and

(2) by adding at the end the following new paragraphs:

''(2) If an employer or employer representative addresses the employees on the employer's premises or during work hours on issues relating to representation by a labor organization, the employees shall be assured, without loss of time or pay, an equal opportunity to obtain, in an equivalent manner, information concerning such issues from such labor organization.

''(3) Subject to reasonable regulation by the Board, labor organizations shall have—

''(A) access to areas in which employees work;

''(B) the right to use the employer's bulletin boards, mailboxes, and other communication media; and

''(C) the right to use the employer's facilities for the purpose of meetings with respect to the exercise of the rights guaranteed by this Act.''.

SEC. 803. LABOR RELATIONS REMEDIES.

(a) BOARD REMEDIES.—Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after the fourth sentence the following new sentence: ''If the Board finds that an employee was discharged as a result of an unfair labor practice, the Board in such order shall (1) award back pay in an amount equal to 3 times the employee's wage rate at the time of the unfair labor practice and (2) notify such employee of such employee's right to sue for punitive damages and damages with respect to a wrongful discharge under section 303 of the Labor Management Relations Act, 1947 (29 U.S.C. 187), as amended by the Fair Labor Organizing Act.''.

(b) COURT REMEDIES.—Section 303 of the Labor Management Relations Act, 1947 (29 U.S.C. 187) is amended by adding at the end the following new subsections:

''(c) It shall be unlawful, for purposes of this section, for any employer to discharge an employee for exercising rights protected under the National Labor Relations Act.

''(d) An employee whose discharge is determined by the National Labor Relations Board under section 10(c) of the National Labor Relations Act to be as a result of an unfair labor practice under section 8 of such Act may file a civil action in any district court of the United States, without respect to the amount in controversy, to recover punitive damages or if actionable, in any State court to recover damages based on a wrongful discharge.''.

SEC. 804. INITIAL CONTRACT DISPUTES.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following new subsection:

''(h)(1) If, not later than 60 days after the certification of a new representative of employees for the purpose of collective bargaining, the employer of the employees and the representative have not reached a collective bargaining agreement with respect to the terms and conditions of employment, the employer and the representative shall jointly select a mediator to mediate those issues

on which the employer and the representative cannot agree.

''(2) If the employer and the representative are unable to agree upon a mediator, either party may request the Federal Mediation and Conciliation Service to select a mediator and the Federal Mediation and Conciliation Service shall upon the request select a person to serve as mediator.

''(3) If, not later than 30 days after the date of the selection of a mediator under paragraph (1) or (2), the employer and the representative have not reached an agreement, the employer or the representative may transfer the matters remaining in controversy to the Federal Mediation and Conciliation Service for binding arbitration.''.

Mr. WELLSTONE. Mr. President, all these amendments will have debate and time agreements, and we will move along.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent that the vote regarding the pending Wellstone amendment occur at 12:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. I thank the Chair.

I yield up to 3 minutes to my colleague from Montana to speak on the pending Wellstone amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, all my colleagues support the intent of the Wellstone amendment. Of course, we want to protect religious freedom all over the world. It is in our American Constitution. It is in our Bill of Rights. It is enshrined in the first amendment to the Constitution. It has helped make America the great country it is. There is no doubt about it.

But that is not what we are voting on. In effect, what we are voting on is whether our American farmers, ranchers, workers, manufacturers, or service providers will be able to take advantage of very significant liberalization and market openings that will occur in China once it joins the World Trade Organization. In effect, that is what we are voting on.

We are also voting on whether, if we deny Americans the opportunity to trade on a more liberalized basis with China, we are going to therefore allow our Japanese and European competitors to trade with China on much more favorable terms than we Americans would.

A vote for the Wellstone amendment means Americans will be closed out of the Chinese market of trade on favorable terms. It also means in effect that other countries—I mentioned before Japan and the European Union—will be able to trade on more favorable terms because they will have already ratified their PNTR with China. It is very clear at this stage of the congressional session, the Presidential election year, any amendment to H.R. 4444 will kill the bill. That is clear. I assure my colleagues that there will be no conference on this bill if there are any amendments at this stage in the congressional session.

I think it is also illustrative to point out what some very prominent religious leaders have said about the WTO and China. The Dalai Lama has said:

Joining the WTO, I think, is one way [for China] to change in the right direction. China must be brought into the mainstream of the world community. Forces of democracy in China get more encouragement through that way.

The Reverend Billy Graham said:

I believe it is far better for us to thoughtfully strengthen positive aspects of our relationship with China than to threaten it as an adversary. It is my experience nations can respond with friendship just as much as people do.

Many religious leaders think we should grant PNTR to China. I believe that. It is crystal clear what the other body will do if any amendments are passed here. If those amendments are passed, we will not have a bill. We will not have PNTR. Therefore, I will vote against the Wellstone amendment. I urge my colleagues to vote against the Wellstone amendment, even though I believe almost all of us agree with its underlying intent. It is just not appropriate at this time on this bill.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Senator from Montana for his remarks.

Mr. President, I join in saying that we all share the concern of Senator WELLSTONE regarding China's repression of its citizens' religious freedoms. I am sure every other Member of the Senate does as well. But if passed, make no mistake about it, this amendment, as with any amendment that would be offered to this bill, will effectively kill permanent normalized trade relations with China, since a House-Senate conference and a second vote on PNTR would then be required.

So this amendment, or any amendment, for any reason, basically is a killer amendment to this bill. That is why I am going to oppose all amendments to PNTR and ask my colleagues to join me in adopting this approach.

As I've said before, I believe H.R. 4444 is certainly among the most important legislation we will consider this year and likely the most consequential of the past decade. That's because passage of PNTR will create vast new opportunities for our workers, farmers and businesses and also vast new opportunities for the people of China.

It's also because PNTR serves America's broader national interest in meeting what is likely to be our single greatest foreign policy challenge in the coming years—managing our relations with China.

And as those with the greatest experience working in faith-based organizations actually based in China will tell you, engaging the Chinese through PNTR and other avenues offers us the best chance to advance religious freedom—not hinder it, or stop it, but to advance religious freedom in China. The best thing they say we can do is help pass PNTR.

Here is what Billy Graham, one of whose organizations has been working in China for 10 years providing Bibles, literature and leadership training, has to say:

I believe it is far better for us to thoughtfully strengthen positive aspects of our relationship with China than treat it as an adversary. In my experience, nations can respond to friendship just as much as people do.

And here is what Reverend Pat Robertson says:

I do not minimize the human rights abuses which take place in [China], but I must say on first-hand observation that significant progress in regard to religious freedom and other civil freedoms has been made over the past twenty-one years. If the U.S. refuses to grant normal trading relations with [China] we will damage ourselves and set back the cause of those in China who are struggling toward increased freedom for their fellow citizens.

Randy Tate, former Executive Director of Christian Coalition, said the following last year:

Our case for greater trade . . . is less about money and more about morality. It is about ensuring that one-fifth of the world's population is not shut off from businesses spreading the message of freedom and ministries spreading the love of God. . .

According to a letter from 21 U.S. religious leaders,

Despite continued, documented acts of government oppression, people in China nonetheless can worship, participate in communities of faith, and move about the country more freely today than was even imaginable twenty years ago. . . . These positive developments have come about gradually in large part as a result of economic reforms by the Chinese government and the accompanying normalization of trade, investment and exchange with the outside world.

Finally, let's listen to His Holiness, the Dalai Lama: ''Joining the World Trade Organization . . .'' he said, ''is one way (for China) to change in the right direction. I think it is a positive development. In the long run, certainly [the trade agreement] will be positive for Tibet. Forces of democracy in China get more encouragement through that way.''

Mr. President, let us also remember that H.R. 4444 contains a provision to establish a Congressional-Executive Commission on the People's Republic of China modelled after the Commission on Security and Cooperation in Europe, which played such an important role in promoting human rights in the former Soviet Union.

This new Commission's purpose is to monitor human rights conditions in China, including the right to worship free of involvement of and interference by the government.

Each year, the Commission will issue a report to the President and the Congress setting forth the findings of the Commission as well as recommendations for legislative or executive actions to push China to improve its record on religious freedom and in other areas of human rights.

Let us also remember that the U.S. Ambassador-at-Large for International

Religious Freedom visited China in 1999 to emphasize to Chinese authorities the priority the United States places on religious freedom.

In addition, the United States has designated China as a ''country of particular concern'' for violations of religious freedom under the International Religious Freedom Act.

Mr. President, every one of us in this body is concerned about religious freedom. Yet as so many religious leaders with long-term experience working in China contend, the best way to advance religious freedom is to further our engagement with China economically and otherwise. PNTR is central to such engagement, particularly as H.R. 4444 specifically addresses the issue of religious freedom.

Finally, I must emphasize again that a vote in favor of the amendment offered by my friend from Minnesota—or for any amendment for that matter—effectively is a vote to kill PNTR. There is simply too little time left in this Congress to conference PNTR and conduct a second round of votes.

I ask my colleagues to join with me in tabling this amendment.

Mr. President, I ask unanimous consent that a statement dealing with the Department of State be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

STATEMENT BY RICHARD BOUCHER, SPOKESMAN RESPONSE TO COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM'S FIRST ANNUAL REPORT

The following statement was issued by Harold Hongju Koh, Assistant Secretary for Democracy, Human Rights and Labor, and Robert Seiple, Ambassador-at-Large for International Religious Freedom.

''The Commission on International Religious Freedom, an independent advisory body created in 1998 to report on and make recommendation to the President, Secretary of State, and the Congress on the state of religious freedom around the world, has released its first annual report. We have only just received the final copy of the report, and will study it carefully. This year's report focuses on three countries in particular—China, Russia and Sudan. In its descriptions of violations of religious freedom, the report appears to parallel closely the evaluations of the State Department's annual Country Reports on Human Rights Practices, released in February of this year, and the International Religious Freedom Report, released in September 1999 (both available at www.state.gov).

''As required by law, the report also makes recommendations for U.S. policy options. We welcome many of the proposals, including the report's call for increased focus on the Sudanese government's abuses of human and religious rights, and its recommendation for increased monitoring of religious liberty at the local level in Russia. The Administration has already enhanced our efforts on each of these issues, and we will look for opportunities to do even more in the future.

''At the same time, the report contains a number of recommendations with which we disagree, especially the recommendation that the Congress impose human rights conditionality on permanent normal trading relations (PNTR) with China. We profoundly believe that conditionality will not advance the cause of religious freedom in China, and will not improve the circumstances of any of the religious adherents about whom we are all deeply concerned. This is because conditionality as proposed by the Commission—and even a vote to reject PNTR—provides little more than the appearance of U.S. leverage against the Chinese government. It would not prevent Chinese entry in to the World Trade Organization (WTO); nor would it deprive China of the economic benefits of WTO membership. What it would do is deprive the U.S. of the full economic benefits of China's market-opening commitments, and severely restrict our ability to positively influence the course of events in China—including our ability to promote religious freedom. It would reduce the role of American companies in bringing higher labor standards to China and in forcing local companies to compete in improving the lives of their workers.

''However, with unconditional Congressional approval of PNTR, China will enter the WTO bound by the full range of economic commitments contained in the U.S.-China bilateral trade agreement. These commitments will move China in the direction of openness, accountability, reform, and rule of law, all of which will improve the conditions for religious freedom in China. Failure to approve PNTR would deprive the U.S. of the ability to hold China to all of these commitments. Given China's likely entry into the WTO, it would also put us in conflict with WTO rules, which require immediate and unconditional provision of PNTR for all WTO members.

''Despite our fundamental disagreement with the Commission on the issue of conditionality, we share the Commission's deep concern about abuse of religious freedom in China, and we remain committed to sustained U.S. Government efforts to promote religious freedom. President Clinton has made promotion of religious freedom abroad a priority of his presidency and an integral part of our foreign policy. The President created the first-ever Advisory Committee on Religious Freedom Abroad, directed that we expand coverage of religious freedom in the State Department's annual human rights report, and supported and signed the legislation that brought into being the International Religious Freedom Commission.

''As demonstrated by our sponsorship of a recent resolution on China at the UN Human Rights Commission in Geneva, we will continue to keep faith with those in China who face persecution due to their religious practices. We also look forward to continued dialogue with the commission on how best to promote our common goal of improving the observance of religious freedom in China and around the world.''

The PRESIDING OFFICER. The Senator from Minnesota, Mr. WELLSTONE, is recognized.

Mr. WELLSTONE. Mr. President, I have already made my arguments. I ask unanimous consent that Senator FEINGOLD be added as an original cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, again, on this one procedural point, maybe there is something I don't understand about the Senate, but I have been here 10 years. We do have conference reports and conference committees. This is the most amazing argument. All of a sudden, people are coming to the floor and saying we can't vote for any amendment because there will be no conference committee, or there might be one, but then the bill will be dead. What? We have conference committees all the time.

If Senators want to pass this, and if this amendment or other amendments pass and this bill is in a different form, it will be a better bill than we have. Believe me, it will go to conference. And given this steamroller on behalf of this legislation, with so many people wanting it to pass with such powerful interests in the country for it, believe me, it will go to conference committee and the conference committee will report right back to us, and it will pass if we want it to pass. You can't make the argument that a vote for the amendment kills the bill. Vote for the amendment on its merits up or down but don't make that argument because it is simply not accurate.

Mr. President, I yield the remainder of my time.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I ask unanimous consent that time prior to a vote relative to the Byrd amendment, re: coal, be limited to 3 hours to be equally divided in the usual form, with no second-degree amendments in order prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMS. The vote has been set for 12:15, is that right?

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. WELLSTONE. I ask that the vote occur now.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMS. Mr. President, I object now in order to give people time to finish some of the business they have before they come to the floor. We have the vote set right now for 12:15, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GRAMS. I object to the request to move the vote up earlier.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Wellstone amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. MURKOWSKI) is necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 30, nays 67, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—30

Ashcroft	Gregg	Reid
Boxer	Harkin	Santorum
Bunning	Helms	Sarbanes
Byrd	Hollings	Sessions
Campbell	Hutchinson	Shelby
Collins	Inhofe	Smith (NH)
Craig	Kennedy	Snowe
Dodd	Leahy	Specter
Dorgan	Mikulski	Torricelli
Feingold	Reed	Wellstone

NAYS—67

Abraham	Feinstein	Lugar
Allard	Fitzgerald	Mack
Baucus	Frist	McCain
Bayh	Gorton	McConnell
Bennett	Graham	Miller
Biden	Gramm	Moynihan
Bingaman	Grams	Murray
Bond	Grassley	Nickles
Breaux	Hagel	Robb
Brownback	Hatch	Roberts
Bryan	Hutchison	Rockefeller
Burns	Inouye	Roth
Chafee, L.	Jeffords	Schumer
Cleland	Johnson	Smith (OR)
Cochran	Kerrey	Stevens
Conrad	Kerry	Thomas
Crapo	Kohl	Thompson
Daschle	Kyl	Thurmond
DeWine	Landrieu	Voinovich
Domenici	Lautenberg	Warner
Durbin	Levin	Wyden
Edwards	Lincoln	
Enzi	Lott	

NOT VOTING—3

Akaka	Lieberman	Murkowski

The amendment (No. 4114) was rejected.

CHANGE OF VOTE

Mr. DODD. Mr. President, on rollcall No. 234, I voted ''no.'' It was my intention to vote ''aye.'' Therefore, I ask unanimous consent that I be permitted to change my vote since it would in no way change the outcome of that vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, on rollcall vote No. 234, I voted ''no.'' It was my intention to vote ''aye.'' Therefore, I ask unanimous consent that I be permitted to change my vote since it would in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. GRAMS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4115

Mr. BYRD. Mr. President, I ask that my amendment No. 4115 at the desk be called up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 4115.

(Purpose: To require the United States to support the transfer of United States clean energy technology as part of assistance programs with respect to China's energy sector, and for other purposes)

On page 69, after line 16, insert the following:

SEC. 702. UNITED STATES SUPPORT FOR THE TRANSFER OF CLEAN ENERGY TECHNOLOGY AS PART OF ASSISTANCE PROGRAMS WITH RESPECT TO CHINA'S ENERGY SECTOR.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the People's Republic of China faces significant environmental and energy infrastructure development challenges in the coming century;

(2) economic growth and environmental protection should be fostered simultaneously;

(3) China has been recently attempting to strengthen public health standards, protect natural resources, improve water and air quality, and reduce greenhouse gas emissions levels while striving to expand its economy;

(4) the United States is a leader in a range of clean energy technologies; and

(5) the environment and energy infrastructure development are issues that are equally important to both nations, and therefore, the United States should work with China to encourage the use of American-made clean energy technologies.

(b) SUPPORT FOR CLEAN ENERGY TECHNOLOGY.—Notwithstanding any other provision of law, each department, agency, or other entity of the United States carrying out an assistance program in support of the activities of United States persons in the environment and energy sector of the People's Republic of China shall support, to the maximum extent practicable, the transfer of United States clean energy technology as part of that program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of the People's Republic of China.

The PRESIDING OFFICER. There are 3 hours equally divided on the amendment.

Mr. BYRD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BYRD. Do quorum calls come out of the 3 hours?

The PRESIDING OFFICER. If they are suggested during the 3 hours, they count. If they are suggested at the end of the 3 hours, they do not.

Mr. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that the time on the quorum call which I am about to enter will not count against the 3 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there are exactly three Senators on the floor, including the Senator presiding. Shouldn't we have better attendance than this on a matter so important as this legislation? I am going to suggest the absence of a quorum, and I will object to it being called off, so it will be a live quorum.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I am going to break my own rule here and ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I do not want to be dilatory. That is not my desire at all. I voted earlier today to proceed to the consideration of this measure. But it seems to me to be a sad reflection on us all if we are going to have a far-reaching measure of this importance before the Senate here at 5 minutes until 1 p.m. and with only three Senators on the floor.

Now, it is not so much that this happens to be my amendment, but this does happen to be an important measure, and this does happen to be an important amendment, in my judgment.

So I am going to suggest the absence of a quorum. I ask unanimous consent that it not be charged against the 3 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Now, Mr. President, I would like to have a live quorum, so I will presently intend to object to the calling off of the quorum because I want Senators to give a little bit of attention to what is going on here.

So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have been informed that several Senators are not here, they having thought there would be at least an hour and a half to 3 hours before there would be a vote. I am not going to take advantage of Senators in that way, and I, therefore, shall proceed.

But with now the time running, let me say, I think this is a travesty upon the legislative process. This is a far-reaching measure. There are important amendments that will be called up and voted down—summarily voted down—by many Members; at least, many Members will summarily vote against any amendment. Some have already announced their intention to vote against any amendment.

So a rhetorical question, I think, would be in order. Why have any debate? Why call up amendments? Why go through this charade? I have called up an amendment. We all know it is going to be rejected because some Senators are going to vote against any amendments, no matter what the amendment provides. They can be good amendments, they can be better amendments, they can be the best amendments. They are all going to be rejected. What kind of legislative process is that?

I have been in this Congress 48 years. I have been in the Senate 42 years. I have never seen anything like this. Members are very forthright in saying—they don't make any bones about it—that they have agreed they will not support any amendment. Why? Because they say it would mean, if the amendment should carry, that the measure would have to go to the House and then to a conference.

The House might accept the amendment. There might not have to be a conference. The House might accept the amendment. And if a conference did ensue, again, so what? That is the way we have been doing things for decades. The Senate votes. If there are amendments to the House bill, then there is a conference, unless the House accepts the amendment itself. Here are some amendments that, if the House should have an opportunity to vote on them, undoubtedly would receive good votes in the House and perhaps, who knows, they might pass the House. But this administration doesn't want any vote.

I ask unanimous consent that I may ask a question of the distinguished chairman of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. This is the question: Does the chairman of the committee know whether or not the administration is opposed to any amendments being added to this measure by the Senate?

Mr. ROTH. Mr. President, I say to my distinguished friend and colleague that it is my understanding the administration is opposed to any amendment.

Mr. BYRD. Can the distinguished chairman answer as to why the administration is opposed to any amendment as far as he, the chairman, knows?

Mr. ROTH. I don't know that I can answer for the White House why they are opposed. I think, if I might make a short comment, a number of us on both sides of the political aisle, as well as both branches of Government, the executive and the Congress, believe this is an extraordinarily important matter, that it involves our country's economic future as well as security, and that it is important we proceed as expeditiously as possible. I suspect, but I cannot say, there are those who are fearful that we are in the campaign season and, if it goes back to the House, that many will be unable to vote their will for fear they might antagonize some of their important supporters.

Mr. BYRD. Mr. President, that is a forthright answer. It is quite enlightening. I certainly thank the distinguished chairman.

I seem to recall that there have been many important measures over the years that have been debated. Many have been enacted; some have been rejected. The Versailles Treaty was rejected.

What I am saying is, this is not the only important measure. I grant that it is very important. The chairman says it is such an important measure, the administration does not want it amended. At least that is his recollection of what the administration's position is. But there have been many important measures. I won't go through them now, but I can think of a good many that have come up here since I have been a Member of the Senate.

I was here when the 1964 Civil Rights Act was enacted. I believe it was before the Senate 116 days, including the 2 weeks that were used in calling up that measure. But we had amendments. There had to be cloture filed on it in order to get a final vote. There was the natural gas bill of 1978. One could go on and name equally important measures that were far-reaching measures, but never was there the blood oath that was taken by Senators that they would stand to the man or to the woman against any amendment: Regardless of its merit, it shall not pass. And since when has the Senate bowed the neck to any administration and agreed, either publicly or in private or with a wink and a nod, that we will stand with you, Mr. Administration; we will be with you; we will stand against any amendment. It does not make any difference how it might affect my constituents. It does not make any difference how it might affect my sons, my daughters, my grandchildren. It does not make any difference, Mr. Administration, or Mr. President; we will stand with you; we will be against this amendment.

What is the Senate coming to when the Senate engages in that kind of charade? I say Senators ought to bow their heads in shame. What is happening to the Senate when that kind of situation obtains? That is what we have come to here, where we follow, like sheep, the administration over a cliff.

I dare say there will be some Senators who have taken that blood oath—I will refer to it as a blood oath; it is probably as good as a blood oath because apparently that is the way it is going to work—who will have agreed to pursue that kind of course in spite of the rules, the history, the traditions of the Senate, in spite of the oath of office they took.

Each of us takes an oath to support and defend the Constitution of the United States. Here is the Constitution of the United States. I hold it in my hand. Are we supporting the Constitution of the United States which says that the Congress shall have power to regulate interstate and foreign commerce? Not exactly in those words, but it is in section 8 of article I of this Constitution: Congress shall have power to regulate commerce. That is what this bill is about, commerce. Yet we are not going to let Congress regulate it. We are not going to let the Congress of the United States uphold and utilize its power under the Constitution of the United States in this regard.

This same Constitution says, with regard to amendments, that all revenue-raising measures will originate in the other body. But the Senate may amend, ''as on other bills,'' it says. So that would include the measure that is before the Senate. So we are giving the back of our hand to the Constitution of the United States. We are not exercising our responsibilities—not just our rights, but we are not exercising our responsibilities to the people, to the Constitution, to this country, to our children, to our grandchildren, and to ourselves. We are not standing by our duty and our responsibility if we enter into such an agreement as that among us.

I daresay some of the Senators who have fallen into that pothole will come to rue the day. I will have more to say about this in that regard before we have the final vote. Today, I cast my 15,801st vote in this Senate; 15,801 votes. No Senator in the history of the Republic can match it. I have never entered into such an agreement. When I was in the leadership, when I was a leader, when I was a whip, when I was secretary of the Democratic conference, whether in the majority or minority, I never asked my friends in the Senate to stand to the man.

I am not saying that the majority leader or minority leader have asked Senators to do that. But there is some kind of a virus that has come along here and seized on the Chamber and, all of a sudden, there are several Senators

who are going to vote against any amendment. Think about that. I would not want my constituents to think I would do that. I might want to listen to a Senator. He might be a Republican. I might want to listen to that Republican explain his amendment, and I might want to vote for it, and I might vote for it. I might vote for it even if my fellow Democrats were against it.

This Senator is not going to be bound by any ''blood oath.'' I objected to that when I was a member of the house of delegates 54 years ago. I stood up in a caucus and said, ''I'm not going to be bound by this caucus.'' It was a Democratic caucus. ''I am not going to walk around here with shackles and chains on my wrists and legs and, more importantly, on my conscience.''

I think a Senator is entitled to be heard on his amendment and entitled to have the frank opinions of other Senators. He is entitled to have his colleagues' opinions, short of any shackles and chains that are binding them, as it were, to vote against any amendment.

So I am utterly wasting my time. I am just wasting my time. I am sorry to say I am impinging on the time of the Presiding Officer. We have the manager of the bill here and I am wasting his time. Why go through all of this when Senators have stood upon this floor and said—I have heard them—that they will vote against any amendment to this bill. Why? Because if the amendment were to be adopted, it would mean that the bill would then have to go back to the House and go to conference. Well, so what. That is the way we do things. That is the process, and it has been the process for decades. That will continue to be the process. We go to conference or the House accepts the bill. In any event, both Houses have to act together in unison and have to agree upon any measure before it can be sent to the President, providing it is a bill or joint resolution.

So there you are. That is the reason. I will tell you why. They are afraid; the administration is afraid. Senators are afraid—those who have taken this position—of being against any amendment. They are afraid that the Senate, in the free exercise of its wisdom and its judgment, might accept and adopt some of these amendments. When they go back to the House in that case, then the House, in its wisdom, might accept the amendments. And so this measure would not be passed as a clean measure.

What are we coming to here? I can't remember that ever happening in my time in the Senate. It is an unwritten agreement, but it is an agreement, apparently. Shame, shame on us; shame on the Senate; shame on the administration, if that is the policy they are pushing. Are we slaves to the administration? Are we slaves or are we men? Are we free men and women? After all, when it is boiled down, in essence, Milton's Paradise Lost is about freedom of the will. God gave man freedom of the will. Now, why don't you Senators exercise that freedom of the will?

I understand that all who vote against amendments are not doing so just because they have entered into some kind of unwritten agreement that they are going to be against all amendments. There are some Senators who will be against this amendment I am offering. They would vote against it, no matter what. So I certainly don't impugn the character or honesty and integrity of Senators. I am sickened by this idea that we have to pass this as a clean bill and no matter what amendment or whose amendment it is, or where it started, or what its impact or merits, we are going to vote down all amendments. That sickens me. You may say, so what, he is sickened. Well, it is more than ''so what.'' This is the United States Senate.

What a sad day when Senators look at a measure and say: We will not support any amendment. What a reflection upon man's freedom of the will. In the body which is the premier upper House of the world, where amendments are assured and where freedom of debate is assured, what a sad reflection upon our attitudes toward our responsibilities and our duties and toward our rights on behalf of our people. The people of West Virginia want this amendment. The people of West Virginia support the amendment. But they are going to be gagged. They can support it all they want. It will not pass. It cannot pass. The same can be said for other amendments.

I have heard it said here, we are going to influence the Chinese to move farther, to a more moderate society, farther in that direction; we have to pass this, we will have more influence. The Chinese have been around for thousands of years, thousands of years. The Chinese were one of the earliest peoples to have a civilized society. And they are in no big hurry. When they seek to achieve an objective, they can wait. They have the patience of that great man of Ur, Job. They have the patience.

And they say we will influence them, we will influence them to become more amenable to our views and the views of the democracy. We don't even have a democracy here. This is a republic. The very idea that we are going to influence them. We have been in business for 212 years here; they have been in business for 2,000, 3,000, 5,000 years or longer. They were around when the pyramids of Egypt were created by the ancient Egyptians. So we are going to influence them? Well, let's see who is influenced in the long run.

The amendment I offer is a good amendment. If we can influence them on this amendment, we will have achieved something.

I say to the former Senator from Wyoming, we don't call attention to people in the galleries, but he has the right to the floor as a former Senator. I say to my friend from Wyoming, who is a man of utterly good sense, good judgment, that if he were a Member of this body, he would laugh at this charade, he would laugh at this charade, were it not so serious. I am glad he is back on the floor today. At least there is a little wisdom in the Chamber at this moment.

Mr. President, as many Senators know, I have been working for many years to provide funding for a range of clean energy technologies. These technologies are essential to growing our economy while also ensuring that environmental improvements, energy security, public health, and air and water quality are met. The U.S. will need a range of energy resources if our nation is ever going to achieve a sustainable economic future, and we must expand the range of newer technologies and practices to meet even more challenging problems in the future. The very same argument can be made for China. It would be productive for both nations if we could leverage our hard-won technological advances while helping China develop in a more environmentally and economically sound manner.

Let me say this over again: It would be productive for both nations—China and the United States—if we could leverage our hard-won and costly, paid for by the taxpayers of America, technological advances, while helping China develop in a more environmentally and economically sound manner.

By 2020, energy technology experts estimate that global clean energy technology markets are expected to double, and these markets in developing countries alone could require a multi-trillion dollar investment as infrastructure is built and replaced. Clean energy technologies and other such beneficial mitigation actions such as carbon sequestration are essential responses if any nation, in this rapidly growing economy, ever hopes to adequately address burgeoning environment and energy concerns such as energy security, resource diversity, land use changes, air and water quality, and ultimately, global climate change. If one realizes that two-thirds of the global energy infrastructure has yet to be built and much of the current infrastructure will need to be upgraded or replaced, then every nation must play a role and strategically plan for this anticipated development.

I note that in May 2000, the U.S. and China signed a cooperative agreement on environment and development. Recognizing that these two intertwining issues are some of the most critical challenges in the coming century, our two nations have committed themselves to meeting ever-growing development needs in an economically and environmentally sound manner. As part of that agreement, the U.S. and China plan to expand and accelerate the transfer of clean energy technologies in order to meet energy demands and environmental protection challenges. Among a number of important features, this recent agreement

specifically calls for the increased utilization of Clean Coal Technologies. I believe that agreements like this are a gradual but positive step in bringing increased cooperation between our two nations, and I hope that future endeavors that build upon this foundation are pursued.

In 1985, I worked to create the Department of Energy's Clean Coal Technology program, a very successful research and development program. Originally designed to address acid rain reduction, the Clean Coal Technology program is now addressing a broader range of emission issues, including the reduction of greenhouse gases. It is well known that, just as coal has fueled much of the American economy, it will play a major role in China's development as well.

The U.S. and China, two of the largest energy producing nations in the world, will only make substantial progress in reconciling the need for economic growth and environmental protection through increased cooperation that includes the use of clean energy technologies such as renewable, energy efficiency, nuclear, and fossil energy technologies including Clean Coal Technologies. In the end, it does not matter where clean energy technologies like American-made Clean Coal Technologies are demonstrated. More importantly, it matters that these technologies be deployed in any region or nation that uses coal to meet rapidly growing energy demands. While the U.S. should be deploying these technologies domestically, the best energy technologies for coal-fired generation facilities must be installed so that their real world benefits can be proven in China likewise. In a recent survey conducted by the Electric Power Research Institute, it is predicted that nations such as China, with large indigenous coal reserves, will use these plentiful resources for producing electricity to fuel their rapidly growing economy. China is the world's largest producer and consumer of coal. The study estimates—now, get this, the two other Senators who are here today. I won't name them. I want my two other Senators, though, to hear this. The study estimates that China could build as many as 180 electric powerplants per year for the next 20 years with about 75 percent of these powerplants utilizing coal.

Now, where are the environmentalists? I need their support on this amendment.

Let me say that again. The study estimates that China could build as many as 180 electric powerplants per year for the next 20 years, with about 75 percent of these powerplants utilizing coal.

What is that going to do to the problem of global warming?

Because coal is the largest energy resource that China can produce in great quantities domestically, it will almost certainly be China's dominant fuel resource choice. As a first step, one of the cheapest and easiest pollution abatement measures that China could utilize would include coal washing. We have been through that. We know what coal washing means. It would use coal washing to remove impurities from the ore.

That distinguished Presiding Officer, who is from Illinois, knows what coal washing is. They produce coal up there in Illinois, and have been doing so for quite a long time.

Today, less than 20 percent of the coal burned in China is washed. In the near term, China needs pollution abatement technologies like coal washing and sulfur scrubbing, with an increasing demand for additional clean coal technologies as new facilities come online.

This evidence should serve as a wake-up call—China will use coal to fuel much of China's economic growth. Still, China's many other domestic environmental challenges are formidable, resulting in serious health and potential economic devastation if they are not addressed. For example, China, home to 5 of the 10 most polluted cities in the world, must address the serious impacts on people's health from this poor air quality.

Today, few Chinese cities have adequate water treatment facilities. Approximately 40 percent of China's water in urban areas is contaminated, and land use changes could make agricultural production and food security increasingly more precarious. Additionally, China now ranks second in the world in energy consumption and greenhouse gas emissions.

Hear me now, environmentalists. You should position yourselves at the doors of this Chamber. You should position yourselves at the elevators to the building and buttonhole these Senators when they come into this Chamber and tell them: Vote for this amendment. This is an environmentalists' amendment.

The Energy Information Agency estimates that 84 percent of the projected growth in carbon emissions between 1990 and 2010 will come from developing countries, and one of the largest sources will be China.

While I know there is no one silver bullet to solve the totality of these very complicated global environment and energy problems, if the international community is ever going to effectively combat issues of air and water pollution, land use changes, and global climate change, then the United States and China must work together to increase the use of clean energy technology. That window is now open. To ignore the benefits of clean coal technologies, knowing that coal will be a primary fuel of choice, would be folly, utter folly. The U.S. has grappled with many of these energy and environmental problems and is making slow but steady progress in addressing air, water, and land use problems.

For example, the United States has done much to improve its own use of coal as a fuel for electric generation. While coal use has tripled since 1970, the emissions have decreased substantially while also providing the much needed electric generation necessary to light this Chamber, for example; to light the White House; to fuel the needs of the big cities on the Atlantic seaboard, the large industrial centers in the Midwest. I am talking about coal, C-O-A-L.

While coal use has tripled since 1970, the emissions have decreased substantially, while also providing the much needed electric generation necessary for economic growth. We should, therefore, provide developing nations such as China with our expertise and experience—at their cost. These are not for free. These are paid for by the American taxpayer. But we should make them available, and our agencies operating in China should help to open the doors, open the gates so these technologies that have come at great expense to the American taxpayer can be utilized for great effect in China.

We should help China to resolve its environmental and developmental dilemmas by learning from our own past mistakes, in part through the utilization of the most advanced energy technologies and practices. My amendment requires any U.S. Government agency that plays a role in environment and energy, and operates in China, to increase that agency's efforts to increase China's efforts to get clean energy technologies on the ground in China.

I recognize that at this time there are particular limitations on specific agencies prohibiting them from working in China. These sanctions are another issue that Congress should address later. My amendment is not intended to overturn those sanctions. Rather, the United States should be using the collective resources and expertise of such Government agencies as the Departments of Commerce, State, and Energy, the Environmental Protection Agency, and the Export-Import Bank to provide greater technical assistance and other aid, to the maximum extent practicable, to assist in the promotion, the transfer, and the deployment of more American-made clean energy technology. The U.S. Government needs to help U.S. companies increase their market share for environmental and clean energy technologies in China's rapidly growing market.

In June 1999, the President's Committee of Advisors on Science and Technology released a report entitled ''The Federal Role in International Cooperation on Energy Innovation.'' The conclusions of that study strongly suggested that more needed to be done to fill the gaps in the ''technology innovation pipeline.'' The recommendations include strengthening the Federal foundation for capacities in energy technology innovation, promoting a range of energy efficient and clean energy technologies, and enhancing the interagency development of these ideas

internationally. The scientific and technology experts outlining these recommendations have made a number of observations in their report that justify the need for this very important amendment.

What are some of those observations?

1. Energy use will grow dramatically worldwide, particularly in developing nations.

2. Technological innovation and the policies adopted to promote efficient and clean energy technologies will determine the quantity of energy used in the future and the impact of that energy use.

3. A significant portion of the demand for new energy technologies will be outside the United States under any future scenario.

4. Government has a critical and legitimate role to play.

5. Strengthening industrial and developing country cooperation on clean energy technologies is a promising approach to helping secure developing country participation in any future international framework for addressing global climate change.

6. A unified vision and coordinated management will enhance U.S. international cooperation efforts on energy.

In an effort to help implement many of these commonsense ideas, I offer my amendment today. If Senators believe that more needs to be done to address global environment and energy issues—and I not only say Senators, but I also include the White House. The Vice President has been a leader in the effort to have countries clean up the pollution. He has been a leader advocating measures to offset global warming. This is his chance. This is the time. This is the opportunity.

If Senators believe that the United States has developed a package of commercial-ready, cutting-edge, clean energy technologies, if we believe the recommendations outlined in this report and believe that they make sense, if we believe the United States should be doing more to develop clean energy technology markets internationally, then I have the way to do it. I have the amendment. This amendment is a logical outcome.

Clean coal technologies are just one of many examples of clean energy technologies that have been enhanced through U.S. investment in research, development, and demonstration. But many of these newer, cleaner technologies must eventually be deployed in the market so that their worthiness can be proved. It is imperative that we fill that gap. The United States should be doing even more to work with China to get clean energy technologies in place.

If there is something real to this thing called global warming—and I believe there is. I believe there is something to global warming. This is the way to ameliorate it.

China would benefit by utilizing cleaner technologies; growing its economy, and improving its citizens' lives. At the same time, U.S. companies would benefit by creating an even broader market opportunity for American-made technologies.

Some people may believe that the United States should not be helping China make clean energy technology investments until China has formally committed itself to the reduction of greenhouse gas emissions, as outlined in Senate Resolution 98. I am a believer in Senate Resolution 98. As a lead sponsor of that resolution, let me be clear, we should be encouraging more action, not less action. The amendment that I offer today is not tied to S. Res. 98 or any climate change treaty.

I recognize the underlying science of climate change and believe that every nation including China, must do its part to tackle this international problem. If the international community is ever going to tackle a truly global issue like climate change, then all nations must work to find equitable, cost-effective ways to reduce greenhouse gas emissions. While clean energy technologies may help reduce greenhouse gases, they also address a wide range of equally important environment and energy concerns. Therefore, the United States should be taking further steps on many fronts, including encouraging China to use more American-made clean energy technologies. This is a win-win-win-win opportunity for both our countries and may eventually provide for future scenarios by which developing nations consider climate change commitments.

While there are many issues that our two large, very powerful countries do not agree on, energy and environment challenges constitute common issues of concern in which we can work more closely. Chinese officials at the highest levels have acknowledged that increasing steps must be taken to fight pollution and ecological deterioration. China's domestic efforts must increase given the serious nature of their environmental problems. They have serious environmental problems, and they know it. It is clearly recognized that there are sound policy options and a range of commercial-ready technologies that can help China make substantial improvements in its energy sector but all parties must be ready to meet these challenges. International cooperation remains critically important, especially for introducing more clean energy technologies and mitigating greenhouse gas emissions. This can be done if the United States and China work more closely to enhance clean energy technology transfer for the benefit of both our nations.

As the panel of scientific and technology experts from this assessment on clean energy technology innovation has concluded:

> The needs and opportunities for enhanced international cooperation on energy-technology innovation supportive of U.S. interests and values are thus both large and urgent. . . . Now is the time for the United States to take the sensible and affordable steps . . . to address the international dimensions of the energy challenges to U.S. interests and values that the 21st century will present.

Therefore, I urge Senators to put aside the blood oath and support this amendment as it will help strengthen the American values, American-made technologies, and the PNTR bill that we are considering today.

Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator has used 56 minutes.

Mr. BYRD. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in opposition to my colleague's amendment regarding clean energy. I have to confess to my good friend and colleague that I do so reluctantly because I know of no one who is more experienced in the procedures of this august body or who is better equipped to lead an argument in which he believes so strongly.

I have to say that much of what he wants to accomplish I not only sympathize with but think it is critically important that we address those problems at some future time.

First, let me repeat what I stated at the beginning of the week. Any amendments that are added to this legislation would indeed force us into conference on this bill. We are in agreement on that. But given the limits of time, it would be uncertain whether we would have the time to take up and adopt a conference report.

Many of us on both sides of the aisle—my distinguished ranking member, Senator MOYNIHAN, as well as myself—strongly believe that this legislation on PNTR is the most important piece of legislation we will consider this year, if not this decade.

I know the ordinary process is to have conferences and go back and forth, but it seems to me one of the remarkable aspects of this Congress, and the Senate in particular, is the flexibility in the means of which we can progress on a legislative endeavor.

Those of us who believe it is of utmost importance that we open China's doors to American exports and products believe strongly that the best way to accomplish it, under current circumstances, is to try to keep a clean bill.

Let me point out for the public at large, particularly in the Senate—perhaps less so in the House—there are many opportunities to raise this type of question. We have a rule of nongermaneness. To me, always one of the great advantages, I say to the distinguished Senator from West Virginia, of being a Senator, even a freshman Senator, is you can raise significant legislation and have the opportunity to debate it on the floor, which is not always true of the House of Representatives.

But the point I am trying to make is that those of us who support this legislation—I would include the administration—there is a broad consensus among many of us that it is critically important that we move ahead with permanent normal trade relations, and that if we begin down the road of amendments, it could very likely prevent effective action being taken on this piece of legislation.

I point out that if we fail to act this year, China will still become a member of the WTO. We are disadvantaging our people, our companies, our workers, our farmers by not providing them the advantage of the significant concessions that Ambassador Barshefsky negotiated with her Chinese counterparts.

I would say, those who oppose the bill, of course, are more likely to be willing to take these risks than those of us who believe it is of such critical importance to our country.

So given the limits of time, it seems to me it would be uncertain whether we would have the time to take up and adopt a conference report. As such, it seems to me, a vote in favor of an amendment on this bill is a vote to kill it. It is really that simple. That is why I must oppose it.

It is ironic that by threatening passage of PNTR, this legislation could have the opposite effect to what was intended. After all, PNTR is essential to giving our companies, our farmers, and our service providers meaningful access to the Chinese market. This, obviously, includes the companies and service providers that are more than ready to sell China environmentally sound products and services, including those that my colleague seeks to promote through this amendment.

I strongly agree on the seriousness of the environmental problems in China. I think the distinguished Senator from West Virginia mentioned there are certain cities that, if you have ever visited, really illustrate the magnitude of the problem and understand the importance of improvement being made environmentally.

But whether or not we will be in a position to supply our technology, to provide our equipment and services, will depend on how effective we will be on moving ahead with granting PNTR in response to the upcoming accession of China to WTO.

Once China becomes a member of the WTO, we will be in a far superior position to provide the kind of assistance that will protect our interests, but that will happen only if we pass this legislation. Passage of PNTR will improve our ability to encourage China to begin to take the measures that are essential if we are going to address the problems of global warming and all the other serious environmental problems.

Indeed, I have to emphasize that, in my judgment, nothing will promote exports of these types of goods and services more than PNTR. This is not just because of the market access commitments the Chinese have made. WTO accession will also bring China under the disciplines of the TRIPS agreement, which is the WTO agreement on intellectual property rights. As my distinguished colleague knows, nothing is more critically important, and protected with greater care, than know-how, technology. The United States is a leader, the world leader in developing the most progressive technology, whether it is environmental technology or technology in other areas. And by passing PNTR, we help protect our technology. We gain a system by which we can enforce our rights; through a dispute settlement process that is part of the WTO. As a matter of fact, the Chinese have even agreed to some stricter provisions in protecting our intellectual property rights, which is important, I know, to both of us.

We should also not lose sight of the fact that the countries with the best environmental practices are those with the greatest level of economic development. China's WTO accession is the key element for ensuring economic growth in China and bringing them along the path of economic development. It is only with that economic development that we will be able to see long-term and sustainable progress towards environmental protection.

Frankly, this is as true in China as it is in any other developing country. It simply is a fact that poor countries cannot afford the types of environmental protections that the wealthier countries enjoy. As much as we may wish this were not the case, it is a fact we cannot ignore. That is why we should not do anything that would threaten PNTR's passage.

There are, in my judgment, many important reasons for supporting PNTR, but one of them is that it, together with WTO accession, will be essential an element of creating the conditions in China for improved environmental protection.

Again, I am very sympathetic to the objectives and goals of the Byrd amendment, but I also feel compelled to make it clear to all my colleagues that a vote in favor of this amendment is a vote to kill PNTR. For that reason, I must oppose this amendment and urge my colleagues to vote against it.

Let me reiterate that China will become a member of the WTO regardless of the decision of Congress on PNTR. The legislation before us is not about that. What is at issue is whether we want to say yes to China's offer to open its door to our goods.

Let me also add that I was very much interested in hearing the comments of Senator LARRY CRAIG of Idaho, discussing on this floor his experience in a visit with the Chinese leadership. In that discussion, he pointed out that not only was the President very open about his support for the concessions that had been made in the negotiations with the United States, but he was looking forward to even greater opening of the Chinese market.

Again, I think it is important for everyone to understand that China has access to the American market. This legislation in no way affects that. What is important, this legislation opens up China's market to the United States of goods, products, technology. For that reason, it is critically important that we proceed and act affirmatively on giving permanent normal trade relations.

Once we do that, we are taking a giant step forward in permitting the kind of exchanges of environmental technology, of science, of equipment, of supplies that will help China address its serious environmental problem. I appreciate the concern of Senator BYRD about this environmental issue, but the best way, in my judgment, to begin solving and addressing that problem is by making sure China has permanent normal trade relations.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, as I indicated yesterday in remarks following an extensive comment by our sometime President pro tempore, our revered Senator from West Virginia, the Senator from Delaware and I would have to oppose all amendments. Whatever their good intentions or sound assertions, they would simply have the effect of costing us this epic and fundamentally important measure.

I will just say one thing about clean coal. It is remarkable how much progress has been made in our time. I can recall, as a graduate student after returning from the Navy, I received a Fulbright fellowship to the London School of Economics. The clean air technology was so bad in Britain that there would be days, theoretically full daylight, in which the buses would be preceded by busmen carrying electric lights to show them their way through the streets of London. It was darkness at noon in the most extraordinary way.

I visited what was then Peking, in our usage, in 1975. The air was not breathable.

At that time, or just previously, the Mao government put out large matters about biological warfare by the United States which required the citizens to wear white masks during the day. Certainly it wasn't biological warfare; it was the air quality. It is not what it should be today. It is vastly better than what it was, and it will be vastly better yet as economic development proceeds.

So with a measure of regret and great respect, I have to urge our Members to vote against this otherwise admirable amendment. On another vehicle, at another time, yes, but not this afternoon.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I yield to the Senator from Texas, Mr. GRAMM, 20 minutes on the Byrd amendment, from our side.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank our dear colleague from Iowa for yielding. While my time will be charged against the majority time on the Byrd amendment, I want to talk about the bill itself.

Mr. President, you run for a high office such as the Senate because you want to have an opportunity to have an effect on people's lives. You hope that effect you have is going to be a positive one. What we have political parties and debate for is to determine which policies are positive and which are negative in terms of their impact on people. I would have to say I have seldom had an opportunity to speak on an issue or to vote on legislation that I think is more important for the future of every American and more important for all the people who live on this planet than the issue of establishing normal trade relations with China.

I would like to try to look at this in more of a historic context, to try to define why I think this is such a big deal and why this is so important to every person living on the planet. In 1948, from the rubble of World War II, a group of 23 nations got together to form an organization that became known as the GATT. What that organization was trying to do was to learn from the experiences of the 20th century, to learn from the experiences of the Great Depression where we turned a recession into a depression with protectionism and protective tariffs, to learn from the terrible experiences of a world war.

Those nations had a vision, in 1948, to set up a world trading system so that people could produce goods and services and sell them all over the world so that countries would not end up getting into wars over resources, because resources would be freely traded. And since people living anywhere could specialize doing the things they did best, those nations believed the welfare of each individual citizen and all citizens combined would be enhanced.

Remarkably, those 23 nations that set up what we know today as the world's trading system included China. In 1948, 52 years ago, China joined the United States, Great Britain, and other countries with a dream of promoting world trade. But then, in 1949, just 1 year later, something happened. What happened was China took the wrong turn. China turned to the dark side. China listened to politicians who said they were for the people and not for the privileged. China thought they could create wealth by tearing down wealth. China thought you could build up somebody by tearing down somebody else. So they set about creating what Chairman Mao called a ''ladder to paradise.'' The net result was the destruction of capital, the destruction of private property, the destruction of any kind of modern system for economic development—and untold suffering and poverty for the Chinese people. Remarkably, a country with among the most able people in the world found itself among the poorest countries on the planet. China had achieved the Marxist dream of making people equal—but it was an equality in poverty and hopelessness. I should say that it was equality for everybody except a small number of political leaders; they seem to never be equal.

If anybody needs any numerical examples of what a difference economic freedom makes, listen to these numbers. In 1949, mainland China and Taiwan had roughly equal per capita incomes. The mainland had all the natural resources, and obviously they had the same kind of people. By 1978, by promoting world trade, protecting private property, and increasingly allowing people to make economic choices for themselves, the per capita income of Taiwan had risen to $1,560 a year. In contrast, per capita income on the mainland was a wretched $188 a year. Today, the per capita income of Taiwan is over $13,000 a year. And while China has started to turn from the dark side, while dramatic changes are underway in China, per capita income there is currently only $790 a year.

Why is this vote so important? The vote is so important because in 1948 China was one of 23 nations that shared our dream of an open world with relatively free trade. Then in 1949 they turned to the dark side, and the Chinese people paid a terrible price for that decision. Today, 52 years after helping to found what now is the World Trade Organization, China is back knocking on the door, in essence saying we did the wrong thing by turning to the dark side 51 years ago, and now we want to come back and join the rest of the world in the free exchange of goods and services.

This is an important occasion, it seems to me, because we have to answer the question: Are we going to open the door or are we going to slam the door in their face?

We often get carried away around here in thinking that if people are not perfect, they are not good enough. We have heard a lot of criticisms about China on the floor of the Senate, and they are the same criticisms heard around the country. Based on the facts I would say the criticisms are absolutely correct.

The two arguments we have heard more than any other argument in this debate are, No. 1, there is relatively little religious freedom in modern China. Obviously, that is true. I remember when Senator MCCAIN and I were in Beijing and we were visiting with the President of China. We had raised the question about Tibet and about religious freedom. He said: We do not object to people practicing religion. It is proselytizing we object to.

I said: Mr. President, you don't know proselytizing. Wait until the Baptists and the Mormons get over here. You haven't seen proselytizing.

When people think they have found something in religion, they want to share it. But in China they do not have a conception of what religious freedom is. If we are going to trade only with countries that have granted its people the full range of religious freedom, China today fails on that account. But that is not the right question. The right question is, Will there be more religious freedom in China tomorrow than today if we reject this agreement, or will there be more religious freedom if we accept it?

I tried during that meeting, and have on several subsequent occasions in meeting with Chinese leaders, to explain that freedom is like pregnancy. You cannot have just a little of it. It takes on its own life. When people have economic freedom, they want political freedom. When people have a right to own property and make decisions about their own future, they want the ability to make decisions about their own leaders. We have seen it in Taiwan. We have seen it in Korea. It is changing the world, and it will change China.

For our colleagues who say they object to religious suppression in China, so do I. I object to it, and that is one of the reasons I am for normal trade relations with China. I believe that based on all of our historic experience, trade will change China. The ability of people to trade and, in the process, to experience prosperity and have the economic freedom that comes from the ability to buy American products, to know the joy of wearing cotton underwear made out of Texas and American cotton, to get the ability to own stock in America, to get the ability to own bank accounts denominated in U.S. dollars—all of that is provided in this agreement.

Once you have a bank account with U.S. dollars in it, you are fundamentally changed forever. You want your right to have your say, and you want the right not only to make decisions in your family, but you want the right to ultimately affect decisions of your country, and you want the right to worship God as you choose. When you have economic freedom and the prosperity it brings, you ultimately have the power to get religious freedom.

Many of our colleagues say that the Chinese do not respect workers' rights, and they do not. If one was going to judge this agreement based on how workers are treated, how do you expect a country to treat workers when most people work for the government? How do you think this country would treat workers if we all worked for the government? Workers end up being treated well because they have opportunities, because if they do not like how they are being treated on this job, they can quit and go to work somewhere else.

We hear the AFL-CIO talk about workers' rights in China. If they really

cared about workers' rights in China, they would be for this agreement because what this agreement is going to mean is more trade, more capital, more competition, more freedom, a larger number of employers in China and, therefore, the freedom that people will have to quit working for the government and government-sponsored enterprises and work in the private sector.

I am not here to argue today that we ought to agree to normal trade relations with China because China treats its workers well. I am here to argue for normal trade relations with China because if we have normal trade relations with China, workers will be treated better because they will have more opportunities, they will have more freedom.

There are some people who make the most fraudulent argument of all, and that is the argument that they oppose normal trade relations with China because China does not protect its environment, or because China makes decisions about its environment to which we object. If you really care about the environment in China—and they are part of the environment of the planet on which we live—you should be for this agreement because what poor country protects its environment? What country with a per capita income of $790 a year has the luxury of being concerned about its environment? I can answer that. None.

If you want the environment to be better protected in China, you want more economic growth, more economic freedom, more prosperity so that people have the luxury of being concerned about the environment.

I am not here today to say people who say there is no religious freedom in China are wrong. I am not here today to say that the people who say workers' rights are not respected in China are wrong. I am not here to say people are wrong when they say that China does not protect their environment. They are right.

The question is not what is China like today; the question is what will China be like tomorrow. The answer will be based on what we do in terms of either opening this door to let them into the world of trade, or slamming the door in their face.

There are other people who say if we let China in, ultimately that is going to mean that when we go to Wal-Mart, that shirts are going to be cheaper, that sweaters are going to be cheaper, that clothing is going to be cheaper, that implements are going to be cheaper, and that that is a bad thing because they could be made in America. I reject that. I think it is a plus. I thank God every day that people can go to Wal-Mart and buy clothing that is inexpensive. Few benefactors in the history of America or the world have done more than Wal-Mart to benefit ordinary people. The Chinese can produce quality goods that the people of Texas want to buy. I believe in freedom, and part of freedom is the right to buy something if it is legally traded and if it benefits your family.

What do we get from these agreements? We have heard a lot of talk about the fact that we get a 17-percent reduction in average tariffs on agriculture. I can assure you that is going to be good news for our corn producers in Texas. It is going to be good news for our cotton producers. We believe that as the Chinese get an opportunity to eat Texas beef, they are going to like it, and as their income grows, they are going to want a lot more of it.

We also believe that lowering industrial tariffs in China from an average of 25 percent to an average of 9 percent is going to be a dramatic boom to U.S. manufacturing, especially the manufacturing of high-quality items in high-wage industries, such as our high-tech industries. We believe we will benefit.

As chairman of the Banking Committee, I wish to touch on three other industries that are also going to benefit. My colleagues know that we in America produce financial services better and more efficiently and more abundantly than any other country in the world. Needless to say, this is a high-wage industry. It is one in which we dominate the world, and we want to continue it. I will touch briefly on a couple of these industries.

In the insurance market in China today, there is an ad hoc system where U.S. and foreign insurers get a license to operate based on political favor, on good fortune, or having been there first.

And as an insurer, you have very real limits on where you can sell your products.

Under the November 15 agreement, China will grant licenses without quantitative limits or needs testing to qualified foreign insurers. American insurance companies will be able to sell in China. And China's geographic limits on where foreign insurers can sell insurance products will be phased out over a 3-year period.

Don't you think it will be good for people in China to get an opportunity to own a piece of the ''rock''? It seems to me that if anything ties us together and promotes peace and trade, it is having people in China be able to invest in American insurance companies, or buy IRAs, or enter into 401(k) retirement programs where the money is invested in the United States of America and around the world. Clearly we all benefit from that.

Today, foreign banks in China can engage only in commercial banking if they are located in 20 specific cities. Foreign banks can only offer banking products in foreign currency. That means that for most people in China, they do not have access to American banks. It's an extremely limited ability to operate. Basically, what foreign banks have to do is to get Chinese partners, which means they basically must give part of their business away for the right to operate in China.

But under the November 15 agreement, all geographic restrictions on foreign banking in China will be lifted within 5 years. American banks will be able to own 100 percent of their banking operations in China.

Mr. President, I ask unanimous consent for 2 additional minutes.

Mr. GRASSLEY. I will grant the 2 additional minutes.

Mr. GRAMM. And within 5 years, American banks will be able to do banking business in Chinese currency.

I cannot imagine how the world won't be better off when people working in China can bank in American banks, and use American banking products. If that is not the essence of freedom, I don't know what is.

It's a similar story for our securities industry. Today, there are very real limits on American securities firms' activities in China, and on the ability of U.S. companies to invest and to have clear operating ownership. Those restrictions will be significantly modified for the benefit of our industry as well as the Chinese.

To sum up, with the implementation of the November 15 agreement and the adoption of this PNTR legislation, the American financial sector as well as our industry and agricultural sectors will have an extraordinary opportunity to compete in a growing market of 1.2 billion consumers.

It is seldom in the Senate that you vote on something that represents history in the making. A lot of what we do here—and a lot of what everybody does in every job in the world—is a bunch of little things about which they don't necessarily get excited. Today, we have an opportunity to work on something that is critically important, something that truly will dramatically improve the world in which we live.

I am very strongly in favor of the pending PNTR legislation. I am opposed to amending this legislation. There are many good ideas for amendments, but the bottom line is this is something that is important. This is something that is historic. We need to get on with it, without tacking on amendments.

I thank our colleague very much for yielding me the time.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER (Mr. L. CHAFEE). The Senator from Kansas.

Mr. ROBERTS. Mr. President, I yield myself as much time as I may consume.

Mr. President, I understand the pending amendment is that of the distinguished Senator from West Virginia. My remarks are not to that amendment, or at least the first part of my remarks, but more general in nature on the entire debate in reference to PNTR.

I believe that the issue before us—whether or not to improve what is called the permanent normal trade relations with China—is the Senate's first critical—very critical—foreign policy test of the 21st century.

It seems to me that we are poised at a crossroads. Our future depends on the right decision.

I thank the distinguished Senator from Texas for a very comprehensive review of the issues that will affect our daily lives and pocketbooks, both in China and the United States—more particularly the United States. I associate myself with his remarks.

Do we approve PNTR and demonstrate to China, and just as importantly, if not more, to the world, that diplomacy through commerce is a formula for stability and progress or do we vote PNTR down and miss the opportunity to become linked with one-fifth of the world's population?

I, for one, hope we summon the wisdom and the courage to remain engaged by appropriately approving the legislation that is before us without amendments. To do otherwise would be a very serious mistake.

I strongly support this legislation. However, some of my colleagues have argued, and will continue to argue, that America should refuse to do business with China. They cite the possibility of job loss, trade deficits, international disputes, and human rights, not to mention national security concerns, as reasons to isolate and to ostracize China.

On the contrary, it seems to me that approving PNTR and validating the trade agreement—which requires China to drastically reduce its tariffs, eliminate trade barriers, and remove restrictions on foreign investment and trading and distribution rights—will benefit American workers and farmers and businesses.

These new market opportunities will support U.S. jobs and U.S. economic expansion into the new century, not to mention assisting the Chinese to become more familiar with and ascribe to the rule of law. This issue cuts across all areas of America.

To illustrate the broad importance of China trade, let me use some examples from my home State of Kansas. Boeing is the world's largest aircraft exporter. It employs 18,000 people in Kansas, with a payroll of $1 billion, where 80 percent of that production—80 percent of that $1 billion that accrues to Kansas—is export related.

In 1994, Boeing exported 25 percent of all Kansas production to China. In the future, China plans to buy large numbers of regional aircraft which are made at the Boeing plant in Wichita. But if the Senate should fail to approve this bill—amendment free—Boeing will suffer a huge competitive disadvantage in the huge Chinese market, and these valuable contracts will go to a European competitor, not to mention the loss of jobs in Wichita.

Likewise, PNTR will have a similar impact on agriculture, an industry where one-third of all goods are bound for export markets.

In 1998, Kansas farms exported $58 million worth of goods to China. This agreement increases the market access and grants distribution rights for corn, beans, wheat, beef, pork, and fertilizer—all of the agricultural products so vital to us in regards to our balance of payments as well.

China soon may be able to purchase the entire annual wheat crop of Kansas. I certainly hope that would be the case, more especially with the price today at the country elevator.

My good friend and Kansas native, Secretary of Agriculture Dan Glickman, estimates that passing PNTR will mean an additional $2 billion per year in total U.S. farm exports to China in just several years.

Engaging China will benefit our other Kansas businesses.

Let me go back and reflect a minute before I get into the other jobs that are directly affected in other industries.

We had quite a discussion, it seems to me, before we broke for the August recess about the appropriations and the authorization for agriculture. I think it was reflective of the $5.5 billion in emergency lost income payments, $7.5 billion, as I recall, for the new crop insurance reform, some emergency assistance because of hard-hit areas of the United States, where farmers and ranchers are going through a difficult time.

People totaled up last year's expenditures and this year's expenditures. The difference this time around is that we budgeted this money. It does not come out of emergency funds. There was a real concern expressed by many of my colleagues on this side of the aisle and that side of the aisle about these expenditures, and saying: My goodness, we are spending a record amount for agriculture.

I didn't hear too much debate in that arena as to the cause, as to why we are going through a world price decline, not only the United States but farmers everywhere, all around the world. There have been 3 record years of crops worldwide, sanctions on 71 countries, not using all the export programs, the value of the dollar hindering our exports, the Asian market in real decline, and the same thing for South America. The list goes on and on. Not too much debate with regard to the cause, what is happening to worldwide agriculture prices, and why this outflow of expenditures, yes, to subsidize American agriculture at record levels, and a lot of concern about, wait a minute, we are not going to have one more nickel go to agriculture that is first not authorized and appropriated. I agree with that; I think that is the way it ought to be.

We have done some very good things in this session in behalf of agriculture. My point is, if we do not pass this trade bill, if we do not have an aggressive and consistent agricultural policy with regard to exports, we really should not be hearing too much criticism about one nickel more going to agriculture—if we shut down these markets and say we are not going to trade with one-fifth of the world's population. That is one of the things we should consider as the law of unintended effects. If in fact this bill does not pass, it is going to cause a trade disruption such that one could hardly imagine. We will be going into the next century with our trade policy in real tatters.

Engaging China will benefit our other Kansas businesses—I am trying to point out the effect of this bill in a macro way in Kansas, micro in terms of the Nation—large and small businesses. Let's try Payless Shoe Source, Inc., 2,000 Kansas employees; Black & Veatch production is export related, a major international engineering firm with offices in the Kansas City area; a business called Superior Boiler Works of Hutchinson, KS, which provides industrial boilers for building projects in China—you might not think Hutchinson, KS, is where we are providing most of the boiler projects for that huge nation, but that is the case—several ventures in China by Koch Industries of Wichita. Clearly, the stakes are high, thousands of jobs. One out of four jobs in Kansas depends on trade. I use the Kansas example only for illustration. All 50 States will certainly benefit as well.

I don't think we need to be misled by charges that a vote against PNTR is a vote to protect American jobs. I just don't think that is correct. There are winners and losers in regard to all trade agreements. As a matter of fact, I think in some ways, when we talk about this issue or any trade pact, they are sometimes oversold. They are not a panacea. There are winners and there are some losers. A trade agreement is nothing more than, nothing less than, a working agreement to try to settle the differences you are going to have with your trading partners and competitors anyway. At least you have some structure there and a rule of law where you can reach a logical conclusion and strike an agreement to have much better trade relations. I know they are overcriticized. If I say they are oversold, they probably are. They are certainly overcriticized.

Federal Reserve Chairman Alan Greenspan recently pointed out:

> It is difficult to find credible evidence that trade has impacted the level of total employment over the long run. Indeed we are currently experiencing the widest trade deficit in history with a level of unemployment close to record lows.

Trade-related jobs pay Americans 15 percent more than the average national wage. Free trade with China will provide unrestricted access to a wider variety of goods and services at lower prices and better quality. The distinguished Senator from Texas certainly gave that example in his remarks. In short, international trade raises real wages with virtually no downside risk to job security.

As a member of the Senate Intelligence Committee and chairman of the Armed Services Subcommittee on Emerging Threats, I have very serious concerns about China emerging as a more significant military threat, especially in the area of thermonuclear weapons and the proliferation of that

weaponry. I know it is a problem. It is a very serious problem. It is a national security concern. However, it seems to me that is not a reason to erect a trade barrier, nor is it an excuse to add what I would consider to be an amendment conceived with good intentions but a counterproductive and redundant amendment.

I know the distinguished Senator from Tennessee should be on the floor shortly to offer an amendment or a freestanding bill, or whatever he so chooses, to address the proliferation issue. I share his concern. I share his sense of frustration. Secretary Albright, Secretary of Defense Cohen, and a panel of experts went to China over the break and did not achieve the progress we all wanted to see with regard to their talks with the Chinese, more especially with the Chinese concern over national missile defense. That is a real challenge. That is a problem. That is a national security challenge. It seems to me we don't solve it by putting an amendment on a trade bill. Quite the opposite. Trade has a stabilizing effect on international relations. The more the two nations trade and invest economically in each other, the less likely they are to engage in military conflict.

If we don't trade, if we isolate China, it isn't a question of whether or not they will join the WTO. We will turn a lot of the decisionmaking over to the two military general authors who say by 2020 they hope China will be a superpower equal to that of the United States. I know that is where they want to go. If we are able to establish a better trading relationship and engagement, all those decisions will not then be turned over to the nationalists, the hardliners, and all of the military generals.

Since the Thompson amendment seems to enjoy more than nominal support—and why shouldn't it? The Senator has worked very hard on this particular issue; he is modifying it almost each day to try get more support. I understand the concern and frustration on the part of many Members who want to send a signal to the Chinese. At that point, it seems to me there is some growing support for the amendment. But I would like to highlight the importance of passing H.R. 4444 without amendments.

No matter how politically tempting or national security tempting a particular amendment may be, a vote for an amendment serves ultimately as a vote against PNTR. We have other avenues by which we can safeguard our national security interests. They are well known to all Members of the Senate. I will not go into that. To attach an amendment to this bill would be a grave mistake. I think Senators should consider that accordingly.

My former House colleagues have assured me they will not take another vote on PNTR. I know that assurance or that talk is not taken seriously by some in this body. I can't tell the Senate how serious it really is, but it seems to me when they look me in the eye and say: Senator ROBERTS, if we do this, there will not be a vote in the House, then we will have a trade disaster on our hands. That will be our responsibility. In short, it is now or never for PNTR. And never is not an alternative.

In addition to the proliferation concerns, I also find China's record on human rights and its religious oppression unacceptable. However, history proves the best manner to inspire change is through engagement and trade, not isolation, turning the decisionmaking, again, over to those who are now in favor of the oppression. When Deng Xiaoping took power in 1978, 2 years after Mao's death, he opened China to trade and foreign investment.

And the change in the economy and the human condition in China was dramatic—outstandingly dramatic. China's gross domestic product grew at an average of 9.7 percent a year for almost two decades. That is an incredible growth. Its share of world GDP rose from 5 percent in 1978 to 11.8 percent by 1998, only 2 years ago. Its income per person rose six times as fast as the world average when they opened it up to trade. So you can see what kind of economic opportunity, what kind of economic wherewithal, and what kind of improvement there was in the daily lives and the pocketbooks of each Chinese individual. You can see what happened.

More importantly, 20 percent of the population—200 million people—were lifted above the subsistence line. The most dramatic increase in the standard of living in the history of the world gave the Chinese people the ability to purchase televisions, washing machines and, increasingly, computers and mobile phones with Internet access, to become members of a modern global society, in terms of information and transparency in regard to freedom and economic opportunity.

Above all, the economic changes are quickly and dramatically improving personal freedom for the average Chinese citizen. Despite the Communist Government, millions of Chinese now have access to foreign magazines and newspapers, copiers, satellite TV dishes, and the Internet, where they can learn about capitalism, freedom, and democracy, and it is catching. Internet access, which American companies are quite willing to provide, will only accelerate this process.

Finally, it should be stressed that congressional approval of PNTR for China is not a decision on whether China becomes a member of the World Trade Organization. That is not the case. That is not the issue. China will become a member of that world trade group, hopefully, later this year, regardless of our decision. It means we will be locked out of the trade benefits, the agreements that have been so long pursued. It means the PNTR vote will determine how the United States deals with this huge nation as it becomes a WTO member. That is exceedingly important.

Approval gives Americans entry to Chinese markets and provides an avenue for influence. Disapproval ensures we are shut out while China does business with the rest of the world.

With that in mind, I strongly urge my Senate colleagues to lead America down the engagement path toward prosperity and peace by promptly approving the PNTR legislation, amendment free.

I will repeat the one thing I underscored when I started my remarks. It is basically a test to demonstrate to the rest of the world and to China that diplomacy through commerce is a formula for stability. I believe that. That is what this vote is all about.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERTS. Mr. President, I yield 15 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Kansas controls 8½ minutes at this time.

Mr. SPECTER. Mr. President, this 15 minutes will be on another subject. I have sought recognition to introduce legislation.

The PRESIDING OFFICER. The Senator only has 8½ minutes to yield.

Mr. BYRD. Mr. President, how much time does the Senator want?

Mr. SPECTER. I will need 15 total.

Mr. BYRD. I yield 6½ minutes to the Senator from Pennsylvania, for a total of 15 minutes.

(The remarks of Mr. SPECTER are located in today's RECORD under Morning Business.)

Mr. LEAHY. Mr. President, the Senator from West Virginia has offered an amendment which highlights that China has enormous reserves of coal which that country will in all likelihood rely on greatly to fuel power plants as its economy continues to expand and modernize.

I commend Senator BYRD for his effort to support the transfer of clean coal technologies to China as part of our foreign assistance programs. The coal in the hills and mountains of China has high concentrations of sulfur and mercury. The United States should encourage the use of technologies that will reduce emissions of harmful substances and improve generation efficiency.

While I support the amendment offered by Senator BYRD, I strongly encourage the Administration to also promote the use of renewable energy technologies in China. Coal may be a plentiful resource in China but that country should also utilize other energy technologies to provide power for their growing economy such as wind, solar and biomass. The United States and many European countries have developed low cost power generation technologies in all of these areas of renewable energy. Our foreign policy

should vigorously promote these technologies as well as clean coal technology.

The PRESIDING OFFICER. The Senator from West Virginia controls the remaining time on the amendment.

Mr. BYRD. How much time remains?

The PRESIDING OFFICER. The Senator has 27 minutes and 9 seconds.

Mr. BYRD. Mr. President, once again, I ask the clerk to read my amendment in the RECORD so it appears once again before the Senate takes a vote.

That time will not be charged to me?

The PRESIDING OFFICER. The Senator is correct.

The clerk will report.

The legislative clerk read as follows:

On page 69, after line 16, insert the following:

SEC. 702. UNITED STATES SUPPORT FOR THE TRANSFER OF CLEAN ENERGY TECHNOLOGY AS PART OF ASSISTANCE PROGRAMS WITH RESPECT TO CHINA'S ENERGY SECTOR.

(a)(1) the People's Republic of China faces significant environmental and energy infrastructure development challenges in the coming century;

(2) economic growth and environmental protection should be fostered simultaneously;

(3) China has been recently attempting to strengthen public health standards, protect natural resources, improve water and air quality, and reduce greenhouse gas emissions levels while striving to expand its economy;

(4) the United States is a leader in a range of clean energy technologies; and

(5) the environment and energy infrastructure development are issues that are equally important to both nations, and therefore, the United States should work with China to encourage the use of American-made clean energy technologies.

(b) SUPPORT FOR CLEAN ENERGY TECHNOLOGY.—Notwithstanding any other provision of law, each department, agency, or other entity of the United States carrying out an assistance program in support of the activities of United States persons in the environment and energy sector of the People's Republic of China shall support, to the maximum extent practicable, the transfer of United States clean energy technology as part of that program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of the People's Republic of China.

Mr. BYRD. Mr. President, I thank the Chair and I thank the clerk.

In conclusion, Mr. President, this is a pro-business amendment. It is a pro-environment amendment. It is a pro-labor amendment. It is a pro-America amendment. It is a pro-commonsense amendment. The amendment helps businesses to get clean energy technologies into the Chinese market. The amendment helps to clean the water and the air.

I have a book by the distinguished Vice President, Mr. GORE, entitled ''Earth in the Balance.'' This is where we can start to clean up the Earth. This amendment helps to clean the water and the air. It helps to reduce global climate change, and helps America use our resources and would help China to use its resources more efficiently.

Finally, this amendment promotes American-made clean energy technologies that help the U.S. economy. Who can be against that? I haven't heard one word in these 3 hours, not one word, of criticism concerning my amendment. Not one word by way of attacking my amendment on its merits. As a matter of fact, not many Senators—two or three only—have spoken a few short words in opposition to the amendment, but their arguments are not going to the merits of the amendment. As a matter of fact, I believe the Senators who have spoken would probably support this amendment if it were on some other bill.

I have crafted this amendment so that every Senator's interests are represented. Here is one of the cleanest, purest amendments that has ever been read at the desk where the clerk sits. Nobody is opposed to anything that is in the amendment. There hasn't been a word, not a single word spoken against this amendment. So it is a win-win opportunity that we should take advantage of today.

The only problem is that Senators have blinders on. I can remember back in 1947 when the State of West Virginia had 97,600 farms, had 97,000 horses, and 6,000 mules. When farmers use their horses, they put blinders on them. I am sure Senators understand what blinders are. They keep the horses from seeing an automobile and shying away from it, possibly running away, wrecking the wagon or the buggy, and ending up killing the passenger.

Senators who oppose this today say quite openly and frankly that they oppose it because any amendment adopted to this bill might kill the bill. This is not a killer amendment. I know a killer amendment when I see one. This is not a killer amendment. I have no interest in killing this bill by this amendment or any other amendment. I will vote against the bill. But I have not engaged in any dilatory tactics. I haven't engaged in any filibuster. I voted to take up the bill. I am not interested in killing it through dilatory actions. I am interested in improving it. This bill is going to pass the Senate. I read the handwriting on the wall. Belshazzar is not the only person who can see handwriting on the wall. I can read the handwriting on the wall. We have absolutely no chance of killing the bill if that is what we want to do. I prefer to improve it. It could be improved to the point that I would vote for it, but it will pass whether I vote for it or not.

This is no killer amendment. This amendment is a highly beneficial amendment to our own country, to the working people, to the businesspeople of this country, to the environmentalists and to the environment, to industry, to the Chinese. I have gone over that already so I won't repeat it again. It is not a killer amendment. I plead with Senators to take off the blinders on this amendment. Take them off. Take off your blinders, Senators, and smudge that line that has been drawn in the sand. Take a good look at this amendment. That is why I have had it read again, just before voting on it. Take a good look at it. This amendment is no killer amendment. It is a sugar pill, candy-coated peppermint pill. There is no hidden ingredient. There is no arsenic here; no bitter aftertaste. It will not leave halitosis. It is a sugar-coated amendment.

This amendment will help our trading relations with China because it can help to assuage environmental concerns about China's coming rapid growth. It will help China. It will help the business community in our own country because it will encourage and enhance the marketability of clean energy technology in China. God knows they are going to need it. They are going to need it. It will help those businesses employ more people as they develop and sell these new energy technologies. Everybody benefits, everybody. And I believe the amendment would pass the House, if the House were given an opportunity to vote on this amendment.

But the Senators who oppose this amendment do not want that to happen. They don't want the House to have an opportunity to debate this amendment. They don't want the House to vote on this amendment. But it would pass the House, probably with flying colors. It is an opportunity that should not be missed just because some Members have taken what would amount to a blood oath to oppose all amendments—oppose all amendments.

It is a winning horse, a winning horse. You can't do better over at Charles Town at the races, I say to my friend from Delaware. You can't find a better horse over at Charles Town, just 75 miles from here. Go over there and see the winning horses.

But this is a winning horse that I have brought in here today; a winning horse. Look at its teeth, open its mouth—it is a winning horse. It is just waiting, just waiting, waiting patiently, may I say to the Senator from Massachusetts before he egresses from the Chamber, this is a horse that is just waiting to collect the prize. And all we have to do is say, ''giddy-up, giddy-up.'' It is my amendment that I am talking about—a winning horse.

Senators, let this pony run. Don't draw the line in the sand. Don't say no. Don't close one's ears, like Odysseus was told by Circe to put wax in his ears so that he wouldn't hear the singing sirens. Take the wax out of your ears. Let this pony run. I plead with Members to take off the blindfolds and look at this amendment on its many, many merits.

This will not hurt, Senators. Put just one toe, the big toe or the little toe, over that line in the sand that you have drawn. There is an oasis of benefits for everybody on the other side of the line. Take this step, take this brave, single step and cross over into the promised land, freed from the shackles of the oath that binds you.

A poem comes to my mind, written by J.G. Holland.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes 20 seconds.

Mr. BYRD. Fifteen minutes, 20 seconds.

I can't find my poem—ah, my trusty aide has found it. I don't need it anyhow.

God, give us men. A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagog
And damn his treacherous flatteries without winking.
Tall men sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumb-worn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo. Freedom weeps,
Wrong rules the land and waiting justice sleeps.
God give us men.
Men who serve not for selfish booty,
But real men, courageous, who flinch not at duty.
Men of dependable character; men of sterling worth.
Then wrongs will be redressed and right will rule the earth.
God, give us men.

Mr. President, I yield back my time. I ask unanimous consent that the vote occur, up or down, on my amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor, and I thank all Senators for listening. And in particular I thank the distinguished manager of the bill, a venerable Senator whom I greatly admire, and with whom I often talk. We engage each other in conversation about our little dogs. He has a little dog. I have a little dog. It recalls to my attention an old song, an old fiddle song:

You better stop kicking my dog around.
Every time I come to town,
The boys start kicking my dog around.
Whether he's a poodle or whether he's a hound,
You better stop kicking my dog around.

That is the way the Senator from Delaware and I feel about it. I treasure his friendship. He has been a fine manager on this bill. But he is wrong in taking the position that he should vote against my amendment.

I also thank my friend on this side of the aisle, Mr. MOYNIHAN; as always, a gentleman and scholar. I thank him for the way he has conducted himself on this amendment and on other bills.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the call for the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 4115. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. MURKOWSKI) is necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The result was announced—yeas 32, nays 64, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—32

Bunning	Harkin	Santorum
Burns	Helms	Sarbanes
Byrd	Hollings	Smith (NH)
Campbell	Inhofe	Snowe
Collins	Jeffords	Specter
Craig	Kennedy	Stevens
Daschle	Kohl	Thompson
Dorgan	Leahy	Thurmond
Edwards	McConnell	Torricelli
Feingold	Mikulski	Wellstone
Gregg	Rockefeller	

NAYS—64

Abraham	Feinstein	Lugar
Allard	Fitzgerald	Mack
Ashcroft	Frist	McCain
Baucus	Gorton	Miller
Bayh	Graham	Moynihan
Bennett	Gramm	Murray
Biden	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Hagel	Reid
Breaux	Hatch	Robb
Brownback	Hutchinson	Roberts
Bryan	Hutchison	Roth
Chafee, L.	Inouye	Schumer
Cleland	Johnson	Sessions
Cochran	Kerrey	Shelby
Conrad	Kerry	Smith (OR)
Crapo	Kyl	Thomas
DeWine	Landrieu	Voinovich
Dodd	Lautenberg	Warner
Domenici	Levin	Wyden
Durbin	Lincoln	
Enzi	Lott	

NOT VOTING—4

Akaka	Lieberman
Boxer	Murkowski

The amendment (No. 4115) was rejected.

CHANGE OF VOTE

Mr. DORGAN. Mr. President, on amendment 4115, rollcall vote 235, I vote ''no.'' My intention was to vote ''aye.'' I ask unanimous consent that I be permitted to change my vote which in no way would change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Delaware.

Mr. ROTH. Mr. President, I ask unanimous consent that Senator HOLLINGS be recognized to offer an amendment, that there be 1 hour equally divided in the usual form prior to a vote in relation to the amendment, and that no second-degree amendments be in order prior to a vote on or in relation to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina.

AMENDMENT NO. 4122

Mr. HOLLINGS. Mr. President, I call up amendment No. 4122 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 4122.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the provision terminating the application of chapter 1 of title IV of the Trade Act of 1974 and the effective date provisions, but provide for accession of the People's Republic of China to the World Trade Organization)

On page 4, beginning with line 4, strike through line 18 on page 5 and insert the following:

SEC. 101. ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WORLD TRADE ORGANIZATION.

Pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the President shall transmit a report to Congress certifying that the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999.

On page 5, line 19, strike ''**SEC. 103.**'' and insert ''**SEC. 102.**''.

Mr. HOLLINGS. Mr. President, I am reading the words of art here. That is why I have drawn this particular amendment because I thought there might be a question of germaneness. You cannot tell from reading without reference what exactly this amendment does. But in a line, it does away with the ''P'' of PNTR, the ''permanent'' normal trade relations, so that we can annually, as we have in the past, fulfill the obligation referred to by the distinguished Senator from West Virginia, who knows better than any our Constitution, article I, section 8. I almost have to demonstrate, like my forbearer, L. Mendel Rivers, the distinguished Congressman from Charleston, SC, who used to head up

Armed Services. He would bring up the Secretary of Defense. He would say, Robert Strange McNamara, not the President, not the Supreme Court, but the Congress shall raise and support armies.

Similarly, not the President, not the Supreme Court, but the Congress, under article I, section 8, shall regulate foreign commerce. Now word has it the ''Philistines'' got the fix on; we can't regulate anything. As the distinguished Senator pointed out in the previous debate on the amendment, there is no debate. They fix the Finance Committee, and once they—the leadership on both sides—get that, then they see how many votes they need and they wait until now to give us a little time, when we are about to leave for the Presidential campaign in another 3 weeks. You would think we would have a chance to debate and exchange ideas about the significance of a $350 billion to $400 billion trade deficit. But not at all. Nobody to listen or to exchange vows and no debate whatsoever. It is very unfortunate.

PNTR, to bring it right into focus—and the reason we submit this particular amendment has nothing to do with opening up China. They say with this agreement and with going into the World Trade Organization, we are going to open up China. Not at all. We have had an agreement with Japan, and Japan has been in the WTO for 5 years, and it has yet to open up the Japanese market.

PNTR has not a thing to do with jobs in America, either. My friend, the director of the U.S. Chamber of Commerce, Mr. Tom Donahue, says PNTR will create 800,000 jobs. I can show you we will lose at least 800,000, according to the Economic Policy Institute. I will get that particular study later.

When they had the House vote and a headline in the Wall Street Journal, there was a footrace for investment in China. But it's not that we are going to start hiring more in America because we are going to have increased production and increased exports and increased jobs, not at all.

So it is not about exports whatsoever. We have a $70 billion deficit in our balance of trade with China, and I will bet you that it increases. Does anybody want to take on the bet? Name the amount, name the odds; the bet is on.

This deficit is going to increase with or without this particular amendment. And it has nothing to do with technology. We already have a $3.2 billion deficit in the balance of trade in high-tech with the People's Republic of China that will approximate $5 billion alone just this year.

It has really nothing to do with the environment and labor. I supported strongly the amendment of the Senator from West Virginia. But, mind you me, it took us 200 years and more to get around to the environment, to get around to a safe working place and everything else of that kind.

It has nothing to do with human rights. The first human right is to feed 1.3 billion. The second human right is to house the 1.3 billion. The third human right is to educate. And the fourth human right, of course, is one man/one vote. Many here in the Congress have been touting one man/one vote. Without education, you have total chaos. As a result, you are not going to have a PNTR agreement that will improve human rights. They have used traumatic control. We oppose that; we don't like it. But run a country of 1.3 billion and let demonstrations get out of hand, and you have total chaos and no progress or improvement.

So it is really not about undermining the Communist regime. I have heard that on the floor. On the contrary. The Communist regime is unanimously in favor of PNTR. They know what they are doing. We don't know what we are doing. It is not about China obeying its agreements, it is about the United States enforcing ours.

I don't know where the fanciful thought has come from that somehow we have to continue like this, after 50 years of almost losing our entire manufacturing capacity, whereas Japan—a little country of 126 million—takes on 280 million Americans and almost outmanufactures and outproduces the United States of America. We are losing our economic strength. We are losing our middle class that is the backbone of that economic strength. ''The strength of a democracy is its middle class,'' said Aristotle. We put in yesterday a particular article from Fortune magazine about the disparity between the rich and the poor and how the middle class is disappearing.

This has to do with the United States competing in international trade, the global economy. That is why I put up this amendment, so that we won't get it done in the year 2000. There is too great an interest in the Presidential campaign right now to really get anything accomplished on this important issue. Neither Presidential candidate has really addressed the subject of our trade deficit. They just say it in a Pavlovian fashion: ''I am for free trade.'' Well, free trade is an oxymoron. Trade is something for something. We know it is not free. Otherwise, of course, they hope to have trade without restrictions, without tariffs, without nontariff barriers, and those kinds of things.

As the father of our country said, the way to maintain the peace is to prepare for war. And the way to maintain free trade, rather than preparing for war, is to prepare for the trade war. It means in a sense to begin to compete, raise a barrier, and remove a barrier in China.

Jiang Zemin or Zhu Rongji should run for President. They know how to run the trade policy. They use that rich market of 1.3 billion and say: You can't come in here and sell that Boeing airplane, that 777, unless you make half of it in downtown Shanghai. You can't come in here with that automobile, that Buick, unless you put your research center here in Shanghai. They just told Qualcomm—although Trade Representative Barshefsky said we solved this problem—that there will be no more technology transfers. Hogwash. Tell them to call Qualcomm. They found out they couldn't sell there unless they shared the technology to the Chinese.

So business is business; it is not the Boy Scouts and it doesn't adhere to the golden rule. Incidentally, it is not for profits in the international competition. The global competition is for market share and for jobs. We are losing out in every particular turn.

So since I am a little bit limited in time here this afternoon, I want to correct the Record. I know the distinguished chairman of our Finance Committee will enjoy this, because I could quote myself.

We did this research 15 years ago. We were tired of hearing about Smoot-Hawley, and that the hobgoblins were coming. They really went around yelling ''peril,'' and the Chinese, how we discriminated against them. Then the talk was that Smoot-Hawley would cause a world war; if you do not vote for this we are going to have World War III. I never heard of such nonsense. It is time we jailed that buzzard, Smoot-Hawley. Unfortunately, Ross Perot didn't understand Smoot-Hawley.

Mr. President, I ask unanimous consent to have printed in the RECORD a part of the CONGRESSIONAL RECORD dated September 17, 1985, the text by the former distinguished Senator of Pennsylvania, John Heinz.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOHN HEINZ, SUBMITTED FOR THE CONGRESSIONAL RECORD, SEPTEMBER 17, 1985

Mr. HEINZ. Mr. President, it gravely concerns me that every time someone in the Administration or the Congress gives a speech about a more aggressive trade policy or the need to confront our trade partners with their subsidies, barriers to imports and other unfair practices, others, in the Congress immediately react with speeches on the return of the Smoot-Hawley Tariff Act of 1930, and the dark days of blatant protectionism and depression.

Take, for example, a statement by the Senator from Rhode Island [Mr. Chafee] which appeared in the Record on June 17. Senator Chafee first asserts that an overvalued dollar is primarily responsible for the current trade deficits. Second, he expresses his concern that Congress might enact legislation, like Smoot-Hawley, in order to alleviate our trade problems. Third, he adds that this would have a devastating effect on the U.S. economy, because Smoot-Hawley had a devastating effect on the economy in the 1930's. In fact, Senator Chafee goes so far as to state that ''The Smoot-Hawley Tariff Act * * *, without question, led to the Great Depression.''

Mr. President, despite my admiration for the Senator from Rhode Island, I find myself unable to agree with him on this issue. First,

while Senator Chafee is correct in citing the excessive value of the dollar as the main contributing factor to our trade deficit, he fails to mention that underlying the dollar's strength and high interest rates is an enormous budget deficit. Nor does he mention the way market access barriers affect U.S. exports abroad.

This question aside, it seems that for many of us that Smoot-Hawley has become a code word for protectionism and, in turn, a code word for the Depression. Yet when one recalls that Smoot-Hawley was not enacted until more than 8 months after the October 1929 economic collapse, it is hard to conceive how it could have ''led to the Great Depression.'' Indeed, for those of us who sometimes wonder about the ability of Congress to make any changes in our economy, the changes supposedly wrought by this single bill in 1930 appear fantastic.

Historians and Economists, who usually view these things objectively, realize that the truth is a good deal complicated, that the causes of the depression were far deeper, and that the link between high tariffs and economic disaster is much more tenuous than the article Senator Chafee placed in the record implies. A 1983 study by Donald Bedell publicly explodes the myth of Smoot-Hawley through an economic analysis of the actual tariff increases in the act and their effects in the early years of the depression. The study points out that the increases in question affected only $231 million worth of products in the second half of 1930, significantly less than 1 percent of world trade; that in 1930–32 duty-free imports into the United States fell at almost the same percentage rate as dutiable imports; and that a 13.5-percent drop in GNP in 1930 can hardly be blamed on a single piece of legislation that was not even enacted until midyear.

This, of course, is not to suggest that high tariffs are good or that Smoot-Hawley was a wise piece of legislation. It was not. It made a bad situation worse. But it was also clearly not responsible for all the ills of the 1930's that are habitually blamed on it by those who fancy themselves defenders of freed trade. Mr. President, I have placed this study in the record previously. Indeed, the Senator from South Carolina (Mr. HOLLINGS] cited it in his recent appearance before the Finance Committee on Textile Legislation. However, the continuing appearance of these articles erroneously blaming Smoot-Hawley for everything bad that has happened since 1930 dictates bringing it to Senators' attention once again. Sort of a refresher course, if you will. Hopefully, the study will help us to clean up the rhetoric so often associated with Smoot-Hawley and provide for a more sophisticated and accurate view of economic history.

Mr. President, I ask that the study, by Don Bedell of Bedell Associates, be printed in the RECORD.

The study follows:

TARIFFS MISCAST AS VILLAIN IN BEARING BLAME FOR GREAT DEPRESSION—SMOOT/HAWLEY EXONERATED

(By Donald W. Bedell)

SMOOT/HAWLEY, DEPRESSION AND WORLD REVOLUTION

It has recently become fashionable for media reporters, editorial writers here and abroad, economists, members of Congress, members of foreign governments, UN organizations and a wide variety of scholars to express the conviction that the United States, by the single act of causing the Tariff Act of 1930 to become law (Public Law 361 of the 71st Congress) plunged the world into an economic depression, may well have prolonged it, led to Hitler and World War II.

Smoot/Hawley lifted import tariffs into the U.S. for a cross section of products beginning mid-year 1930, or more than 8 months following the 1929 financial collapse. Many observers are tempted simply to repeat ''Free Trade'' economic doctrine by claiming that this relatively insignificant statute contained an inherent trigger mechanism which upset a neatly functioning world trading system based squarely on the theory of comparative economics, and which propelled the world into a cataclysm of unmeasurable proportions.

We believe that sound policy development in international trade must be based solidly on facts as opposed to suspicions, political or national bias, or ''off-the-cuff'' impressions 50 to 60 years later of how certain events may have occurred.

When pertinent economic, statistical and trade data are carefully examined will they show, on the basis of preponderance of fact, that passage of the act did in fact trigger or prolong the great depression of the thirties, that it had nothing to do with the great depression, or that it represented a minor response of a desperate nation to a giant world-wide economic collapse already underway?

It should be recalled that by the time Smoot/Hawley was passed 6 months had elapsed of 1930 and 8 months had gone by since the economic collapse in October, 1929. Manufacturing plants were already absorbing losses, agriculture surpluses began to accumulate, the spectre of homes being foreclosed appeared, and unemployment showed ominous signs of a precipitous rise.

The country was stunned, as was the rest of the world. All nations sought very elusive solutions. Even by 1932, and the Roosevelt election, improvisation and experiment described government response and the technique of the New Deal, in the words of Arthur Schlesinger, Jr. in a New York Times article on April 10, 1983. President Roosevelt himself is quoted in the article as saying in the 1932 campaign, ''it is common sense to take a method and try it. If it fails, admit it frankly and try another. But above all, try something.''

The facts are that, rightly or wrongly, there were no major Roosevelt administration initiatives regarding foreign trade until well into his administration; thus clearly suggesting that initiatives in that sector were not thought to be any more important than the Hoover administration thought them. However, when all the numbers are examined we believe neither President Hoover nor President Roosevelt can be faulted for placing international trade's role in world economy near the end of a long list of sectors of the economy that had caused chaos and suffering and therefore needed major corrective legislation.

How important was international trade to the U.S.? How important was U.S. trade to its partners in the twenties and thirties?

In 1919, 66 percent of U.S. imports were duty free, or $2.9 billion of a total of $4.3 billion. Exports amounted to $5.2 billion in that year making a total trade number of $9.6 billion or about 14 percent of the world's total.

U.S. GROSS NATIONAL PRODUCT, 1929–33

[Dollar amounts in billions]

	1929	1930	1931	1932	1933
GNP	$103.4	$89.5	$76.3	$56.8	$55.4
U.S. international trade	$9.6	$6.8	$4.5	$2.9	$3.2
U.S. international trade percent of GNP	9.3	7.6	5.9	5.1	[1] 5.6

[1] Series U., Department of Commerce of the United States, Bureau of Economic Analysis.

Using the numbers in that same chart I it can be seen that U.S. Imports amounted to $4.3 billion or just slightly above 12 percent of total World Trade. When account is taken of the fact that only 33 percent, or $1.5 billion, of U.S. Imports was in the dutiable category, the entire impact of Smoot/Hawley has to be focused on the $1.5 billion number which is barely 1.5 percent of U.S. GNP and 4 percent of world imports.

What was the impact/ in dollars dutiable imports fell by $462 million, or from $1.5 billion to $1.0 billion, during 1930. It's difficult to determine how much of that small number occurred in the second half of 1930 but the probability is that it was less than 50 percent. In any case, the total impact of Smoot/Hawley in 1930 was limited to a ''Damage'' number of $231 million spread over several hundred products and several hundred countries!

A further analysis of imports into the U.S. discloses that all European Countries accounted for 30 percent or $1.3 billion in 1929 divided as follows: U.K. at $330 million or 7½ percent, France at $171 million or 3.9 percent, Germany at $255 million or 5.9 percent, and some 15 other nations accounting for $578 million or 13.1 percent for an average of 1 percent.

These numbers suggest that U.S. Imports were spread broadly over a great array of products and countries, so that any tariff action would by definition have only a quite modest impact in any given year or could be projected to have any important cumulative effect.

This same phenomenon is apparent for Asian countries which accounted for 29 percent of U.S. Imports divided as follows: China at 3.8 percent, Japan at $432 million and 9.8 percent, and with some 20 other countries sharing in 15 percent or less than 1 percent on average.

Australia's share was 1.3 percent and all African countries sold 2.5 percent of U.S. Imports.

Western Hemisphere countries provided some 37 percent of U.S. Imports with Canada at 11.4 percent, Cuba at 4.7 percent, Mexico at 2.7 percent, Brazil at 4.7 percent and all others accounting for 13.3 percent or about 1 percent each.

The conclusion appears inescapable on the basis of these numbers; a potential adverse impact of $231 million spread over the great array of imported products which were dutiable in 1929 could not realistically have had any measurable impact on America's trading partners.

Meanwhile, the Gross National Product (GNP) in the United States had dropped an unprecedented 13.5 percent in 1930 alone, from $103.4 billion in 1929 to $89 billion by the end of 1930. It is unrealistic to expect that a shift in U.S. International Imports of just 0.2 percent of U.S. GNP in 1930 for example (231 million on $14.4 billion) could be viewed as establishing a ''precedent'' for America's trading partners to follow, or represented a ''model'' to follow.

Even more to the point an impact of just 0.2 percent could not reasonably be expected to have any measurable effect on the economic health of America's trading partners.

Note should be taken of the claim by those who repeat the Smoot/Hawley ''villain'' theory that it set off a ''chain'' reaction around the world. While there is some evidence that certain of America's trading partners retaliated against the U.S. there can be no reliance placed on the assertion that those same trading partners retaliated against each other by way of showing anger and frustration with the U.S. self-interest alone would dictate otherwise, common sense would intercede on the side of avoidance of ''shooting oneself in the foot,'' and the facts disclose that World Trade declined by 18 percent by the end of 1930 while U.S. Trade declined by some 10 percent more or 28 percent. U.S. Foreign Trade continued to decline by 10 percent

more through 1931, or 53 percent versus 43 percent for World-Wide Trade, but U.S. share of World Trade declined by only 18 percent from 14 percent to 11.3 percent by the end of 1931.

Reference was made earlier to the duty free category of U.S. Imports. What is especially significant about those import numbers is the fact that they dropped in dollars by an almost identical percentage as did dutiable goods through 1931 and beyond: Duty Free Imports declined by 29 percent in 1930 versus 27 percent for dutiable goods, and by the end of 1931 the numbers were 52 percent versus 51 percent respectively.

The only rational explanation for this phenomenon is that Americans were buying less and prices were falling. No basis exists for any claim that Smoot/Hawley had a distinctively devastating effect on imports beyond and separate from the economic impact of the economic collapse in 1929.

Based on the numbers examined so far, Smoot/Hawley is clearly a mis-cast villain. Further, the numbers suggest the clear possibility that when compared to the enormity of the developing international economic crisis Smoot/Hawley had only a minimal impact and International Trade was a victim of the great depression.

This possibility will become clear when the course of the Gross National Product (GNP) during 1929–1933 is examined and when price behavior world-wide is reviewed, and when particular tariff schedules of manufacturers outline in the Legislation are analyzed.

Before getting to that point another curious aspect of the ''Villian'' theory is worthy of note. Without careful recollection it is tempting to view a period of our history some 50–60 years ago in terms of our present world. Such a superficial view not only makes no contribution to constructive policy-making. It overlooks several vital considerations which characterized the twenties and thirties:

1. The internal trading system of the twenties bears no relation to the interdependent world of the eighties commercially, industrially and financially in size or complexity.

2. No effective international organization existed, similar to the general agreement for tariffs and trade (gatt) for example for resolution of disputes. There were no trade ''leaders'' among the world's nations in part because most mercantile nations felt more comfortable without dispute settlement bodies.

3. Except for a few critical products foreign trade was not generally viewed in the ''economy-critical'' context as currently in the U.S. as indicated earlier neither President Hoover nor President Roosevelt viewed foreign trade as crucial to the economy in general or recovery in particular.

4. U.S. Foreign Trade was relatively an amorphous phenomenon quite unlike the highly structured system of the eighties; characterized largely then by ''Caveat Emptor'' and a broadly laissez-faire philosophy generally unacceptable presently.

These characteristics, together with the fact that 66 percent of U.S. Imports where duty free in 1929 and beyond, placed overall international trade for Americans in the twenties and thirties on a very low level of priority especially against the backdrop of world-wide depression. Americans in the twenties and thirties could no more visualize the world of the Eighties than we in the eighties can legitimately hold them responsible for failure by viewing their world in other than the most pragmatic and realistic way given those circumstances.

For those Americans then, and for us now, the numbers remain the same. On the basis of sheer order of magnitude of the numbers illustrated so far, the ''villian'' theory often attributed to Smoot/Hawley is an incorrect reading of history and a misunderstanding of the basic and incontrovertible law of cause and effect.

It should also now be recalled that, despite heroic efforts by U.S. policy-makers its GNP continued to slump year-by year and reached a total of just $55.4 billion in 1933 for a total decline from 1929 levels of 46 percent. The financial collapse of October, 1929 had indeed left its mark.

By 1933 the 1929 collapse had prompted formation in the U.S. of the reconstruction finance corporation, Federal Home Loan Bank Board, brought in a democrat president with a program to take control of banking, provide credit to property owners and corporations in financial difficulties, relief to farmers, regulation a stimulation of business, new labor laws and social security legislation. Beard, Charles and Mary, new Basic History of the United States).

So concerned were American citizens about domestic economic affairs, including the Roosevelt Administration and the Congress, that scant attention was paid to the solitary figure of Secretary of State Cordell Hull. He, alone among the Cabinet, was convinced that international trade had material relevance to lifting the country back from depression. His efforts to liberalize trade in general and to find markets abroad for U.S. products in particular from among representatives of economically stricken Europe, Asia and Latin America were abruptly ended by the President and the 1933 London Economic Conference collapsed without result.

The Secretary did manage to make modest contributions to eventual trade recovery through the most favored nation (MFN) concept. But it would be left for the United States at the end of World War II to undertake an economic and political role of leadership in the world; a role which in the twenties and thirties Americans in and out of government felt no need to assume, and did not assume. Evidence that conditions in the trade world would have been better, or even different, had the U.S. attempted some leadership role cannot responsibly be assembled. Changing the course of past history has always been less fruitful than applying perceptively history's lessons.

The most frequently used numbers thrown out about Smoot-Hawley's impact by those who believe in the ''villain'' theory are those which clearly establish that U.S. dollar decline in foreign trade plummeted by 66 percent by the end of 1933 from 1929 levels, $9.6 billion to $3.2 billion annually.

Much is made of the co-incidence that world-wide trade also sank about 66 percent for the period. Chart II summarizes the numbers.

UNITED STATES AND WORLD TRADE, 1929–33

[In billions of U.S. dollars]

	1929	1930	1931	1932	1933
United States:					
Exports	5.2	3.8	2.4	1.6	1.7
Imports	4.4	3.0	2.1	1.3	1.5
Worldwide:					
Exports	33.0	26.5	18.9	12.9	11.7
Imports	35.6	29.1	20.8	14.0	[1] 12.5

[1] Series U. Department of Commerce of the United States, League of Nations, and International Monetary Fund.

The inference is that since Smoot-Hawley was the first ''protectionist'' legislation of the twenties, and the end of 1933 saw an equal drop in trade that Smoot-Hawley must have caused it. Even the data already presented suggest the relative irrelevance of the tariff-raising act on a strictly trade numbers basis. When we examine the role of a world-wide price decline in the trade figures for almost every product made or commodity grown the ''villain'' Smoot-Hawley's impact will not be measurable.

It may be relevant to note here that the world's trading ''system'' paid as little attention to America's revival of foreign trade beginning in 1934 as it did to American trade policy in the early thirties. From 1934 through 1939 U.S. foreign trade rose in dollars by 80 percent compared to world-wide growth of 15 percent. Imports grew by 68 percent and exports climbed by a stunning 93 percent. U.S. GNP by 1939 had developed to $91 billion, to within 88 percent of its 1929 level.

Perhaps this suggests that America's trading partners were more vulnerable to an economic collapse and thus much less resilient than was the U.S. in any case the international trade decline beginning as a result of the 1929 economic collapse, and the subsequent return by the U.S. beginning in 1934 appear clearly to have been wholly unrelated to Smoot/Hawley.

As we begin to analyze certain specific schedules appearing in the Tariff Act of 1930 it should be noted that sharp erosion of prices world-wide caused dollar volumes in trade statistics to drop rather more than unit volume thus emphasizing the decline value. In addition, it must be remembered that as the great depression wore on, people simply bought less of everything increasing further price pressure downward. All this wholly apart from Smoot/Hawley.

When considering specific schedules, No. 5 which includes sugar, molasses, and manufactures of maple sugar cane, syrups, adonite, dulcite, galactose, inulin, lactose and sugar candy. Between 1929 and 1933 import volume into the U.S. declined by about 40% in dollars. In price on a world basis producers suffered a stunning 60% drop. Volume of sugar imports declined by only 42% into the U.S. in tons. All these changes lend no credibility to the ''villain'' theory unless one assumes, erroneously, that the world price of sugar was so delicately balanced that a 28% drop in sugar imports by tons into the U.S. in 1930 destroyed the price structure and that the decline was caused by tariffs and not at least shared by decreased purchases by consumers in the U.S. and around the world.

Schedule 4 describes wood and manufactures of, timber hewn, maple, brier root, cedar from Spain, wood veneer, hubs for wheels, casks, boxes, reed and rattan, toothpicks, porch furniture, blinds and clothespins among a great variety of product categories. Dollar imports into the U.S. slipped by 52% from 1929 to 1933. By applying our own GNP as a reasonable index of prices both at home and overseas, unit volume decreased only 6% since GNP had dropped by 46% in 1933. The world-wide price decline did not help profitability of wood product makers, but to tie that modest decline in volume to a law affecting only 6½% of U.S. imports in 1929 puts great stress on credibility, in terms of harm done to any one country or group of countries.

Schedule 9, cotton manufactures, a decline of 54% in dollars is registered for the period, against a drop of 46% in price as reflected in the GNP number. On the assumption that U.S. GNP constituted a rough comparison to world prices, and the fact that U.S. imports of these products was infinitesimal. Smoot/Hawley was irrelevant. Further, the price of raw cotton in the world plunged 50% from 1929 to 1933. U.S. growers had to suffer the consequences of that low price but the price itself was set by world market prices, and was totally unaffected by any tariff action by the U.S.

Schedule 12 deals with silk manufactures, a category which decreased by some 60% in dollars. While the decrease amounted to 14% more than the GNP drop, volume of product

remained nearly the same during the period. Assigning responsibility to Smoot/Hawley for this very large decrease in price beginning in 1930 stretches credibility beyond the breaking point.

Several additional examples of price behavior are relevant.

One is schedule 2 products which include brick and tile. Another is schedule 3 iron and steel products. One outstanding casualty of the financial collapse in October, 1929 was the gross private investment number. From $16.2 billion annually in 1929 by 1933 it has fallen by 91% to just $1.4 billion. No tariff policy, in all candor, could have so devastated an industry as did the economic collapse of 1929. For all intents and purposes construction came to a halt and markets for glass, brick and steel products with it.

Another example of price degradation world-wide completely unrelated to tariff policy is petroleum products. By 1933 these products had decreased in world price by 82% but Smoot/Hawley had no petroleum schedule. The world market place set the price.

Another example of price erosion in world market is contained in the history of exported cotton goods from the United States. Between 1929 and 1933 the volume of exported goods actually increased by 13.5% while the dollar value dropped 48%. This result was wholly unrelated to the tariff policy of any country.

While these examples do not include all schedules of Smoot/Hawley they clearly suggest that overwhelming economic and financial forces were at work affecting supply and demand and hence on prices of all products and commodities and that these forces simply obscured any measurable impact the tariff act of 1930 might possibly have had under conditions of several years earlier.

To assert otherwise puts on those proponents of the Smoot/Hawley ''villain'' theory a formidable challenge to explain the following questions:

1. What was the nature of the ''trigger'' mechanism in the act that set off the alleged domino phenomenon in 1930 that began or prolonged the Great Depression when implementation of the act did not begin until mid-year?

2. In what ways was the size and nature of U.S. foreign trade in 1929 so significant and critical to the world economy's health that a less than 4% swing in U.S. imports could be termed a crushing and devastating blow?

3. On the basis of what economic theory can the act be said to have caused a GNP drop of an astounding drop of 13.5% in 1930 when the act was only passed in mid-1930? Did the entire decline take place in the second half of 1930? Did world-wide trade begin its decline of some $13 billion only in the second half of 1930?

4. Does the fact that duty free imports into the U.S. dropped in 1930 and 1931 and in 1932 at the same percentage rate as dutiable imports support the view that Smoot/Hawley was the cause of the decline in U.S. imports?

5. Is the fact that world-wide trade declined less rapidly than did U.S. foreign trade prove the assertion that American trading partners retaliated against each other as well as against the U.S. because and subsequently held the U.S. accountable for starting an international trade war?

6. Was the international trading system of the twenties so delicately balanced that a single hastily drawn tariff increase bill affecting just two hundred and thirty one million dollars of dutiable products in the second half of 1930 began a chain reaction that scuttled the entire system? Percentage-wise $231 million is but 0.65% of all of 1929 world-wide trade and just half that of world-wide imports.

The preponderance of history and facts of economic life in the international area make an affirmative response by the ''Villian'' proponents an intolerable burden.

It must be said that the U.S. does offer a tempting target for Americans who incessantly cry ''Mea Culpa'' over all the world's problems, and for many among our trading partners to explain their problems in terms of perceived American inability to solve those problems.

In the world of the eighties U.S. has indeed very serious and perhaps grave responsibility to assume leadership in international trade and finance, and in politics as well.

On the record, the United States has met that challenge beginning shortly after World War II.

The U.S. role in structuring the United Nations, the general agreement on tariffs and trade (GATT), the International Monetary Fund, the Bretton Woods and Dumbarton Oaks conferences on monetary policy, the World Bank and various regional development banks, for example, is a record unparalleled in the history of mankind.

But in the twenties and thirties there was no acknowledged leader in international affairs. On the contrary, evidence abounds that most nations preferred the centuries-old patterns of international trade which emphasized pure competition free from interference by any effective international supervisory body such as GATT.

Even in the eighties examples abound of trading nations succumbing to nationalistic tendencies and ignoring signed trade agreements. Yet the United States continues as the bulwark in trade liberalization proposals within the GATT. It does so not because it could not defend itself against any kind of retaliation in a worst case scenario but because no other nation is strong enough to support them successfully without the United States.

The basic rules of GATT are primarily for all those countries who can't protect themselves in the world of the eighties and beyond without rule of conduct and discipline.

The attempt to assign responsibility to the U.S. in the thirties for passing the Smoot/Hawley tariff act and thus set off a chain reaction of international depression and war is, on the basis of a preponderance of fact, a serious misreading of history, a repeal of the basic concept of cause and effect and a disregard for the principle of proportion of numbers.

It may constitute a fascinating theory for political mischief-making but it is a cruel hoax on all those responsible for developing new and imaginative measures designed to liberalize international trade.

Such constructive development and growth is severely impeded by perpetuating what is no more than a symbolic economic myth.

Nothing is less worthwhile than attempting to re-write history, not learning from it, nothing is more worthwhile than making careful and perceptive and objective analysis in the hope that it may lead to an improved and liberalized international trading system.

Mr. HOLLINGS. Mr. President, I had the distinction of working with this tremendous public servant, a brilliant fellow with the best personality. We all loved him. I worked with him on the budget. We even got Sec. 13.301, regarding a lockbox. We already have written in law that you are not to include Social Security in your budget. It is supposed to be in a trust fund. It was signed into law on November 5, 1990, by George Herbert Walker Bush. But they all say: Now I have a lockbox bill. They voted—98 Senators, Senator Heinz, and myself included, back at that particular time. But they don't obey it.

I think the most brilliant of Senators—I have been around 34 years—is our distinguished colleague, the ranking member, PATRICK MOYNIHAN of New York. Sen. MOYNIHAN wrote a very scholarly bill. I don't disparage at all. I lost a lot of valuables during a fire at my home. One was a collection of his books, which has now been replaced. He is a brilliant author, a most interesting writer, and a tremendous authority. But on this particular score, he is incorrect. The outcome of this vote won't threaten any world war, or anything else like that.

It is very important to realize that the crash came in October 1929, and Smoot-Hawley did not occur until June of 1930—8 months after the crash. And furthermore, back in 1929 and 1930, international trade to the United States economy was only 1.5 percent of the GNP. So Smoot-Hawley could not have caused the crash, which has been contended on the floor of the Senate.

And, No. 2, it had no far-reaching effects. In fact, it was hardly mentioned by either President Hoover, or then-candidate Franklin Delano Roosevelt, or President Roosevelt after he took office because there were other things to be disturbed about. The adverse effects of Smoot-Hawley paled in comparison to the problems facing the United States at that time.

I quote:

The conclusion appears inescapable on the basis of these numbers; a potential adverse impact of $231 million spread over the great array of imported products which were dutiable in 1929 could not realistically have any measurable impact on America's trading partners.

$231 million—here we are talking about a $350 billion to a $400 billion deficit. This is the overall trade figure of $231 million.

I read further:

Meanwhile, the gross national product (GNP) in the United States had dropped an unprecedented 13.5 percent in 1930 alone, from $103.4 billion in 1929 to $89 billion by the end of 1930. It is unrealistic to expect that a shift in U.S. international imports of just 0.2 percent of U.S. GNP in 1930 for example ($231 million on $14.4 billion) could be viewed as establishing a ''precedent'' for America's trading partners to follow, or represented a ''model'' to follow.

Even more to the point an impact of just 0.2 percent could not reasonably be expected to have any measurable effect on the economic health of America's trading partners.

I read and skip over because it is too long under the limited time to read the report in its entirety. But I quote this part.

1. The international trading system of the twenties bears no relation to the interdependent world of the eighties commercially, industrially and financially in size or complexity.

2. No effective international organization existed, similar to the General Agreement for Tariffs and Trade (GATT) for example for resolution of disputes. There were no trade ''leaders'' among the world's nations in part because most mercantile nations felt more comfortable without dispute settlement bodies.

3. Except for a few critical products foreign trade was not generally viewed in the ''economy-critical'' context as currently in the

U.S. as indicated earlier neither President Hoover nor President Roosevelt viewed foreign trade as crucial to the economy in general or recovery in particular.

4. U.S. foreign trade was relatively an amorphous phenomenon quite unlike the highly structured system of the eighties; characterized largely then by ''Caveat Emptor'' and a broadly laissez-faire philosophy generally unacceptable presently.

That brings it into sharp focus, because you have heard again and again that Smoot-Hawley started a trade war, that collapsed economies brought on the Depression and started World War II. They say if we don't vote for PNTR, it will cause World War III. They are bringing out all of these bogeymen. There is no merit in this.

Again, the Constitution, article I, section 8, says the Congress shall regulate and control foreign trade.

We are listening to the White House and the fix that is on, and they said, permanently abandon, amend the Constitution if you please, disregard this fundamental, and let us handle it because the White House father knows best. They bring out that white tent, and they all run around. They are mostly your friends, Senator ROTH. You know them well. And they are for profits. They don't have a country.

Listen to what Boeing says: I am not an American corporation, I am an international company.

Listen to the chairman of the board of Caterpillar: I am an international corporation.

They are companies without any country. They could care less about you, and I have to give every care. You and I are responsible for the regulation of foreign trade, and we ought not vote against it this afternoon by voting down this amendment on the premise of no amendments, no amendments, no amendments. If we have amendments, the House would then have a chance to look at it and realize that permanent trade relations with China abrogates the responsibility of Congress under the Constitution.

Reading on, there are a couple more quotes in the limited time.

In the concluding comments by Senator Heinz at that time:

The attempt to assign responsibility to the U.S. in the thirties for passing the Smoot/Hawley Tariff Act and thus set off a chain reaction of international depression and war is, on the basis of a preponderance of fact, a serious misreading of history, a repeal of the basic concept of cause and effect and a disregard for the principle of proportion of numbers.

It may constitute a fascinating theory for political mischief-making but it is a cruel hoax on all of those responsible for developing new and imaginative measures designed to liberalize international trade.

Such constructive development and growth is severely impeded by perpetuating what is no more than a symbolic economic myth.

Nothing is less worthwhile than attempting to rewrite history, not learning from it. Nothing is more worthwhile than making careful and perceptive and objective analysis in the hope it may lead to an improved and liberalized international trading system.

Senator John Heinz of Pennsylvania said that 15 years ago, almost to the day, September 1985. Those observations that our distinguished colleague made are just as true today.

Under the Constitution there is a fundamental responsibility that Congress regulates foreign commerce, but the Finance Committee and the administration with its fixed votes says: No, give it up. When I say ''fixed votes,'' I wish I had the New York Times article. I wish I had the Washington Post article. There were followup articles to the vote on NAFTA, the North American Free Trade Agreement with Mexico, and in that, distinguished Chairman ROTH, it was revealed that they gave our friend, Jake Pickle, a cultural center, they gave another Congressman two C–17s, and another a round of golf in California with the President—just to get their vote. They went around to fix, nothing to do with trade, and once the fix is on, you come out on the floor and say: Vote if you please to abandon your constitutional responsibility.

My amendment says: No, let's have trade with China. That is obviously going to occur. We live in the real world. These embargoes don't work. Forget about the embargoes. You cannot stop trade and grind the economy to a halt, the world economy to a halt, as they alleged Smoot-Hawley did. It will never happen.

It is not about starting a trade war and having an embargo. It is about enforcing our dumping laws—we could start by consolidating the enforcement efforts—and realizing that the industrial worker of the United States of America is the most competitive in the world. The thing that is not competing is the Congress of the United States.

We are about to vote. They say this amendment, too, will be voted down. We are about to vote down our responsibility to one of the most important issues that possibly could confront us. Alan Greenspan says the only bad effect on the economy is the $350 billion trade deficit.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 3017 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the pending amendment is the Hollings amendment, which takes the ''P'' out of PNTR; that is, as I understand the amendment, it provides for an annual review of normal trade relations status.

Mr. HOLLINGS. Right.

Mr. BAUCUS. I oppose that amendment, and I urge my colleagues to do so, for a very simple reason. That is, if that amendment were agreed to and were to become part of the normal trading relations status with China, we automatically as Americans would be shooting ourselves in the foot, to say the least.

Why do I say that? As the world becomes more complicated, more complex, we hear about globalism, trade agreements, taxation or nontaxation of products over the Internet, and whatnot. Unfortunately, we have to rise to a higher level of more sophistication and learning and know what is going on with these arrangements and agreements so that we Americans are in a better economic condition.

It is difficult, but we have no choice with all the economic pressures that are advancing our world so quickly. The provisions of the World Trade Organization, I believe, very much help raise our economic standards. They are not perfect, but perfection cannot be the enemy of the good. If there were no WTO, it would be an economic free-for-all. Various countries would be doing their own deals at the expense of others, and it would be chaos. It would be a mess. At least the World Trade Organization is a vehicle, a forum, a mechanism, a way to get some civility, some process into trade matters and trade disputes that occur in this world.

One of the basic principles of the World Trade Organization is nondiscrimination and unconditionality. It is written in article 1 of the WTO. That means when a country grants trade concessions to another, it must do so unconditionally and on a nondiscriminatory basis so the same benefits, same provisions apply to all countries in the world. Otherwise, it is obvious if one country had certain trade agreements with one country and gave certain benefits to one and not another, there would be chaos. Article 1 of the WTO articles provides for nondiscrimination and unconditionality with respect to trade agreements and membership in the WTO.

The amendment before us is discriminatory and it is conditional by not making it permanent normal trade relations status but annual. That flatly violates article 1 of the WTO. As a consequence, if this amendment is adopted, we Americans could be giving up all the market-opening benefits to which China has agreed. That is, China would have no obligation to grant America those concessions, and they are major, whether it is auto tariffs or tariffs on other products. China is dramatically lowering tariffs.

China would also say: We Chinese agree to let you Americans set up your own distribution systems; you do not have to deal through Chinese companies anymore. The list is mind-boggling. It is amazing how much China has agreed to open up and to take American products that we have been trying to export to China that, frankly, have not been exported or significantly diverted because of current Chinese barriers.

My colleagues are going to hear the argument: This agreement is going to help Americans invest in China, and that takes away American jobs. Companies in America and around the world are already investing in China. It is happening today.

The agreement with China says: OK, there can be a lot less pressure on companies to build factories in China and make it more easy for American companies to ship products to China because China is dramatically reducing its barriers.

If this amendment is adopted, as I mentioned, China will be under no obligation to give us those breaks as we try to ship products to China. China will have no obligation to lower trade barriers that China has negotiated with the United States. However, China will be obligated to give those benefits and breaks to our competitors—to Japan, to the European Union—because they have entered WTO properly under the conditions of unconditionality and nondiscrimination. We have complied with article 1.

We have heard a lot of facts and figures about a lot of different issues, but the heart of this amendment is to take away the permanent nature of normal trade relations with China that we will be granting, and that means it is conditional, it is discriminatory and flatly violates article 1 of the WTO and, therefore, is a killer amendment, an anti-American amendment. It is anti-American because all other countries get benefits, and it is a killer because it means we will not get the benefits of China opening up to American exports.

Let me cite one of America's foremost experts on the GATT and the WTO, Professor John Jackson, Georgetown University Law Center:

The United States must extend permanent, unconditional MFN treatment to the PRC for the US to comply with US WTO obligations, unless the US invokes the ''opt-out'' provisions of the WTO.

Our own Congressional Research Service has concluded:

In order to make US law consistent with WTO obligations, Congress would need to remove the PRC from the Title IV regime (i.e., Jackson-Vanik) . . . The Title IV regime is inconsistent with MFN obligations when applied to a WTO member . . . because of the conditions that it attaches to the grant of nondiscriminatory treatment to that country's goods.

Let me respond to the criticism that we get nothing out of PNTR in terms of US trade benefits.

The fact is that granting China PNTR will bring a significant drop in Chinese tariffs. That will reduce the pressure many companies feel to invest in China in order to do business there. Our information technology products—computers, fiber optics, and telecommunications equipment—will see tariffs in China go to zero by 2004. Auto parts tariffs will average only ten percent by 2006.

When you add these significant tariff reductions to the new ability that American firms will have to import directly into China, control their own distribution and service networks, and own advertising firms, export of our goods and services will increase substantially.

Yes, American companies will continue to invest in China. But their ability also to export will be enhanced significantly by PNTR. Failure to grant China PNTR will allow our Japanese and European competitors to export more, but not our workers and our farmers.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I want to yield time to the distinguished Senator from Oklahoma or I will ask unanimous consent that he be permitted such time as is necessary. He wanted to speak on this. I did not realize that. I want to have a few minutes left.

I want to comment on the remarks of the distinguished Senator from Montana. All these wonderful benefits—he has not read the GAO report. Everything is indeterminate. This is the most flexible agreement ever made. We made one with Japan and we have not penetrated that market. We made one with Korea and we have not penetrated that one, either.

All these benefits—I do not know if a $68 billion deficit is a benefit. Heavens above, we have to stop this somehow. Paraphrasing Abraham Lincoln: We have to think anew, act anew, and work together, we might get a plus balance of trade.

The distinguished Senator is saying if you vote for this amendment, you are violating article 1 of the WTO. I say if you vote against it, you are violating article I, section 8 of the U.S. Constitution, abdicating our responsibility to regulate foreign commerce. We cannot make an agreement with the WTO to disband and dispel that particular obligation and responsibility.

I do not understand that at all. That is a narrow analysis if I ever saw one, that somehow the WTO is a wonderful thing. In fact, we are getting all kinds of requests to get out of it on account of the foreign credit sales given American corporations in their exports overseas. I will get into that later on, perhaps next week.

We have received a number of those requests. We are losing, I say to the distinguished Senator. The only reason for this amendment is to say: Wait a minute, let's have trade with China; go ahead with the WTO. Let's just take the ''P'' out of PNTR. The Senator from Montana said on the floor and Senator MOYNIHAN said on the floor, irrespective of this bill, China will become a member of the WTO—and we are a member of the WTO, so why are they so worried about this amendment?

We are not violating anything by voting for this amendment, but my colleagues will violate article I, section 8 of the Constitution and our responsibilities under the Constitution if they vote against it.

I have used the remaining time I had, I believe. I thank the distinguished Chair. I yield the floor.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Delaware.

Mr. ROTH. Mr. President, I yield myself such time as I may utilize.

I rise in opposition to the amendment offered by my distinguished colleague from South Carolina, and I disagree with my colleague that supporters of normalizing trade have no merit to their argument. The economic benefits of China's accession are unassailable.

According to independent economic analysis, China's market access commitments will mean an additional $13 billion in U.S. exports annually. Our current exports to China are $14 billion a year, which means the deal so ably negotiated by Ambassador Barshefsky will effectively double annual U.S. exports to China.

Doubling our exports to China holds benefits for every sector of the U.S. economy from agriculture to manufacturing to services. It also provides significant benefits for American workers.

The one step that we must take to ensure that American farmers, American workers, and American businesses reap the benefits of an agreement that three Presidents took 13 years to squeeze out of the Chinese. That step is to normalize our trade relations with China.

What that means in practical terms is an end to the unproductive annual review of China's trade status. That is what H.R. 4444 does—it eliminates the annual review that has provided no leverage over Chinese behavior.

My distinguished colleague's amendment would gut the House bill by once again requiring this unproductive annual review of China's trade status. The amendment would deny the benefits of China's WTO accession to our farmers, to our workers, and to our businesses.

Why is that? It is because the annual vote on China's trade status would violate our own obligations under the WTO, as was so effectively pointed out by the Senator from Montana, and allow the Chinese to deny our exporters access to their markets. That access would go, instead, to our European, Japanese, and other competitors.

My colleague from South Carolina has said that the Japanese know how to run their trade policy. Let me say that if we deny the benefits of this deal to our exporters, we will have given the Japanese a trade policy gift that I am certain they would never have guessed we would have been foolish enough to forego.

And, for what? How will denying our exports to China give us any leverage over Chinese behavior? Why would we suppose that cutting off our exports to China would do anything to influence

China's policies, whether on Taiwan, on weapons proliferation, on human rights, or on labor rights?

No. What we get in return for foregoing the benefits of this deal is the prospect of returning to the same unproductive annual debate we hold on China's trade status. It should be obvious to all, based on the arguments we have heard today about Chinese behavior, that the annual debate simply has not worked. It is time to take a different approach.

The bottom line is that we have precious little to lose in ending the annual renewal process and much, much to gain by enacting PNTR.

That is why I oppose the amendment offered by my distinguished colleague and urge this body to oppose it as well.

Mr. President, I yield the floor.

Mrs. FEINSTEIN. Mr. President, I oppose amendment No. 4122, which calls for annual trade reviews with China, offered by the distinguished junior Senator from South Carolina on H.R. 4444, Permanent Normal Trade Relations with China.

This amendment, if passed as part of the China PNTR bill, would be tantamount to unilaterally establishing special conditions on China's membership in the WTO, a violation of World Trade Organization precepts the United States, as a member, commits to follow.

In such a case, China would be legitimately entitled to deny American workers, entrepreneurs, investors—in short, our Nation—the benefits of open access to China's markets and the privileges of important WTO-related agreements, such as the International Telecommunications Agreement, conferred by WTO membership.

I am also convinced that amendments at this stage create a procedural problem that could derail passage of this extremely important bill. Adopting any amendments at this stage would require sending this bill to conference. It is clear to me that we do not have the time remaining in this Congress to resolve a bicameral conflict over this bill. I believe it is crucial that we let nothing interfere with what may be the most important decision concerning China for years to come.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I think the Senator, the chairman of our committee, has spoken so well and effectively; the Senator from Montana equally so. I believe this debate has been thorough. We respect our friend from South Carolina. We know his views. We do not share them in this case.

So much is at issue. Let us go forward and vote and get on with this matter.

Mr. ROTH. Is there any time remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Delaware has 4 minutes.

Mr. ROTH. Mr. President, I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from South Carolina has 38 seconds.

Mr. HOLLINGS. Mr. President, I yield back the 38 seconds.

The PRESIDING OFFICER. The Senator yields back the time.

The yeas and nays have been requested.

Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 4122.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), the Senator from California (Mrs. FEINSTEIN), and the Senator from Connecticut (Mr. LIEBERMAN), are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. FEINSTEIN) would vote ''no.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 13, nays 81, as follows:

(Rollcall Vote No. 236 Leg.)

YEAS—13

Bunning	Hollings	Smith (NH)
Byrd	Hutchinson	Specter
Campbell	Inhofe	Wellstone
Feingold	Mikulski	
Helms	Sarbanes	

NAYS—81

Abraham	Enzi	Lugar
Allard	Fitzgerald	Mack
Ashcroft	Frist	McConnell
Baucus	Gorton	Miller
Bayh	Graham	Moynihan
Bennett	Gramm	Murray
Biden	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Breaux	Hagel	Robb
Brownback	Harkin	Roberts
Bryan	Hatch	Rockefeller
Burns	Hutchison	Roth
Chafee, L.	Inouye	Santorum
Cleland	Jeffords	Schumer
Cochran	Johnson	Sessions
Collins	Kennedy	Shelby
Conrad	Kerrey	Smith (OR)
Craig	Kerry	Snowe
Crapo	Kohl	Stevens
Daschle	Kyl	Thomas
DeWine	Landrieu	Thompson
Dodd	Lautenberg	Thurmond
Domenici	Leahy	Torricelli
Dorgan	Levin	Voinovich
Durbin	Lincoln	Warner
Edwards	Lott	Wyden

NOT VOTING—6

Akaka	Feinstein	McCain
Boxer	Lieberman	Murkowski

The amendment (No. 4122) was rejected.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, if I could speak briefly about the schedule, I have been talking with Senator REID and Senator DASCHLE and the managers of this legislation. We are making progress on the amendments. We have had a good debate throughout the week. We are going to keep pushing ahead until we get through the amendments. I had committed not to file cloture before next Tuesday, but it would be my intention to file cloture next Tuesday, if necessary, to get this legislation completed. I think everybody is working hard and doing a good job.

Tonight, at 6 o'clock we will go back to the energy and water appropriations bill. I know Senator DOMENICI and Senator REID are prepared to work on that tonight. Our intent is to push ahead. Hopefully, we will get Senators' amendments considered and disposed of quickly. The intent is to stay and get it done tonight. I believe Senator DOMENICI and Senator REID have indicated that is what they intend to do and we will certainly support their efforts.

I ask unanimous consent that following the vote in relation to the Hollings amendment, Senator SMITH of New Hampshire be recognized to offer his amendment to H.R. 4444, and at 6 o'clock p.m. the amendment be immediately laid aside and the Senate resume consideration of H.R. 4733, the energy and water appropriations bill under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I have a couple of unanimous consent requests that I will offer at this time and hopefully it will not take too long to consider these and we can go ahead and stay on schedule.

I ask unanimous consent that no later than the close of business on Tuesday, September 26, the majority leader be recognized to turn to calendar 527, which is S. 2340, regarding the Amateur Sports Integrity Act, and immediately following the reporting by the clerk, the committee amendments be immediately agreed to, and the majority leader then be recognized to send a cloture motion to the desk to the bill.

Under rule XXII, the cloture vote would occur 1 hour after the Senate convenes following the ascertainment of a quorum on Thursday, September 28.

I also ask consent that notwithstanding rule XXII, if the cloture is invoked, the bill be considered under the following agreement: That there be 2 hours for debate on the bill to be equally divided in the usual form; that there be up to two relevant amendments in order for Senator REID of Nevada and Senator BROWNBACK of Kansas or their designees, that they be subject to relevant second-degree amendments; that no motions to recommit or commit be in order.

I further ask consent that following the disposition of the above-listed amendments, and the use or yielding back of time, the bill be advanced to

third reading and passage occur, all without intervening action or debate.

Mr. REID. Reserving the right to object, efforts to force this body to consider a questionable proposal, which is a ban on legal gambling on college games, shows a fundamental misunderstanding, in this Senator's view.

At this stage, we have about 18 or 19 days left in this congressional session. We have 11 appropriations bills that must pass the Senate. We have all the fundamental conference reports that must be held. There is a hue and cry about doing something about a real Patients' Bill of Rights. There is a need to do something about minimum wage. We have all kinds of problems with education. As we speak, today, 3,000 children dropped out of high school in America, and we are not spending any time on that. We need prescription drug coverage, Medicare. There are so many fundamental issues that we need to work on and there is not a hue and cry out there that we need to take the next 19 days and spend 1 minute talking about banning something that is legal in America; that is, betting on college games.

Remember, if we were serious about doing something about betting on college games, we would go after the 98.5 percent of illegal betting that goes on in college games. Only a percent and a half goes on in college games, and that is legal in the State of Nevada.

With just a few weeks to go in Congress, it is incredulous we would be asked to waste time debating the merits of banning legalized wagering on college games.

Therefore, Mr. President, with great underscoring, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. LOTT. Mr. President, I believe there was an objection heard.

I ask consent that the Senator from Kansas be recognized for 1 minute so he can respond on this issue, since it is an issue in which he has been very much involved.

Mr. BRYAN. I request to be included for an additional minute.

Mr. LOTT. I amend my request for that.

Mr. SMITH of New Hampshire. Reserving the right to object, the vote went longer than anticipated. I was looking only for 5 or 10 minutes to present my amendments.

Mr. LOTT. We have the Senator locked in.

We will delay. Let me just ask unanimous consent, then, that we delay going on the energy and water bill for 10 minutes. It will be 10 after 6. Is that the correct time?

Mr. SMITH of New Hampshire. I thank the leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the majority leader's underlying request?

Mr. DOMENICI. Does that mean we will be on the floor at——

Mr. LOTT. It will be 10 after 6.

The PRESIDING OFFICER. Is there objection to the underlying unanimous consent request? Without objection, the Senator from Kansas is recognized for 1 minute, after which the Senator from Nevada will be recognized for 1 minute.

Mr. BROWNBACK. Mr. President, Senator MCCAIN and I are bringing this bill forward. I think the majority leader has proposed 2 hours of debate. I am willing to do that at any time, any place. We would do it now here on the floor, but we can go to the middle of the night if people would like to. This has cleared the Commerce Committee; 14–2 was the vote when this cleared through.

There is a hue and cry across the country. Virtually every college in America has asked for this legislation because they are having problems on their college campuses dealing with betting on their athletes. This is affecting the moral values. It is giving a black eye to our college campuses. There is one place in the country that this goes on legally. It is in Nevada. It is a loophole that has been there, and it is time for us to deal with it. We only need 2 hours to deal with it. I think we can take care of this within the timeframe that is left. I applaud the leader and hope we can get to this yet during this session.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, this legislation would plunge the dagger into the back of Nevada's principal industry and would accomplish no useful purpose. Ninety-eight percent of the sports betting in America is conducted illegally outside of the State of Nevada. There is no logical way in which you can conclude that by eliminating sports betting that occurs in my own State, that is licensed, that is regulated—you have to be 21 years of age—you address a legitimate problem, which is illegal gambling on college campuses.

It is misdirected, it is ill-conceived, and it would be the dream of every illegal bookie in America if this legislation passes. I am pleased to join with my colleague in objecting to this legislation.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I have another unanimous consent request.

First, let me say there has been a lot of discussion about the support and the need for a lockbox on Social Security and Medicare. I certainly agree. We have tried to get that put in place in the Senate. We have not been successful. So I am going to ask consent that we get an agreement to do that.

I remind my colleagues, it was passed in the House overwhelmingly, 46–12, to do that with regard to Social Security and Medicare. We have attempted to do it. We tried to invoke cloture in June of 1999, which failed basically along party lines. I think maybe there has been a lot of movement in this direction, so I think we ought to try to set this up before we go out.

I ask unanimous consent it be in order for the majority leader, after notification of the minority leader, to turn to Calendar No. 152, H.R. 1259, regarding the Social Security and Medicare lockbox, and following the reporting of the bill by the clerk, all remaining amendments to the bill be germane to the subject contained in H.R. 1259.

The PRESIDING OFFICER. Is there objection?

The Democrat leader.

Mr. DASCHLE. Reserving the right to object, let me say for the record, the majority leader has, as he has indicated, offered the lockbox legislation on two separate occasions. I might remind my colleagues that on both occasions he filed cloture immediately, denying the minority any opportunity to offer amendments.

I ask unanimous consent, and ask the majority leader's support, for an alternative approach which would be that we offer Medicare/Social Security lockbox amendments in addition to a prescription drug benefit amendment to be offered in the context of this lockbox. I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. But I hope the minority leader would consider working together to see if we could get a vote on the Social Security/Medicare lockbox itself. Perhaps he would like to have an alternative proposal in that area. I think we can work it out where there would be alternative proposals on Social Security/Medicare lockbox, if you have a different idea about how to do it. I don't think we ought to get into other issues at this point.

Let's make it clear whether we want to have the Social Security/Medicare lockbox or not. I would be glad to talk with the Democratic leader about seeing if we can at least set it up. There will be other bills where I am sure the prescription drug matter is going to come up, is going to be debated, and it is going to be voted on.

There is a lot of talk out across the land about the lockbox and how there is one or should be one. I think we ought to go ahead and complete that action, and I will work with the Senator on that.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. Let me respond to the majority leader again to suggest, as I have on many occasions, that we can find a way, perhaps, to address this issue. We certainly have a lot of ideas. I do not want to preclude ideas articulated and offered by my colleagues. I would be more than happy to work

with him. As he has indicated, there is a good deal of interest on Social Security and Medicare lockboxes and perhaps we can find a procedural way to address them even in the short time that remains in this session.

Mr. DORGAN. Will the minority leader yield for a moment? I would like to say I am very interested in the lockbox. I am also interested in making sure there is something in the box before it is locked. We have $1.3 trillion in tax cut proposals around here for surpluses that don't yet exist. So when these are offered, I think some of us would like the opportunity to offer amendments. That is the point the Senator from South Dakota makes, and a very appropriate point.

Mr. DASCHLE. I thank the Senator from North Dakota. That is our concern. If we are going to have a debate, we need to have a debate about these issues that afford Senators the right to offer amendments. But again, I reiterate my desire to discuss it with the majority leader.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor, to be followed by the Senator from New Hampshire.

Mr. LOTT. If I do have the floor, I yield to Senator DOMENICI.

Mr. DOMENICI. I say to my good friends on the other side of the aisle, the Vice President, as your candidate, plans to spend $2.6 trillion of this surplus on new programs. That is what we are worried about. So we both have some worries about what is going to be left in the lockbox—whether we are going to spend it on taxes or whether you are going to spend it on an infinite number of new programs. I yield the floor.

Mr. LOTT. Mr. President, in view of the time that we have taken, I ask unanimous consent the time before we go to energy and water be extended to 6:15 so Senator SMITH can offer his amendments and lay them aside as he had been promised he would be able to do.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

Mr. SMITH of New Hampshire. I thank the majority leader for his consideration and also thank Senator DOMENICI as well. I do not want to hold the Senate up from moving to the appropriations bill.

AMENDMENT NO. 4129

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 4129.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SMITH of New Hampshire. Mr. President, I ask the amendment that I sent to the desk be divided into six categories in the manner in which I now send to the desk.

The PRESIDING OFFICER. The amendment is so divided.

The amendment, as divided, is as follows:

(Purpose: To require that the Congressional-Executive Commission monitor the cooperation of the People's Republic of China with respect to POW/MIA issues, improvement in the areas of forced abortions, slave labor, and organ harvesting, and for other purposes)

On page 46, between lines 3 and 4, insert the following:

Division I

SEC. 302A. MONITORING COOPERATION ON POW/MIA ISSUES.

(a) IN GENERAL.—The Commission shall monitor and encourage the cooperation of the People's Republic of China in accounting for United States personnel who are unaccounted for as a result of service in Asia during the Korean War, the Vietnam era, or the Cold War, including, but not limited to—

(1) providing access by Commission members and other representatives of the United States Government to reported sites of prisoner of war camps of the Korean War era in the People's Republic of China, and to archives, museums, and other holdings of the People's Republic of China, that are believed by the Commission to contain documents and other materials relevant to the accounting for such personnel; and

(2) providing access by Commission members and other representatives of the United States Government to military and civilian officials of the Government of the People's Republic of China, and facilitating access to private individuals in the People's Republic of China, who are determined by the Commission potentially to have information regarding the fate of such personnel.

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall also include the following:

(1) An assessment of the contribution to the accounting for missing United States personnel covered by subsection (a) of the information obtained by the Commission and other United States Government agencies under that subsection during the period covered by the report.

(2) A description and assessment of the cooperation of the People's Republic of China in accounting for United States personnel covered by subsection (a) during the period covered by the report.

(3) A list of the archives, museums, and holdings in the People's Republic of China, and of the reported sites of prisoner of war camps of the Korean War era in the People's Republic of China, proposed to be visited by the Commission, and by other representatives of the United States Government, during the 12-month period beginning on the date of the report.

(4) A list of the military and civilian officials of the Government of the People's Republic of China, and of the private individuals in the People's Republic of China, proposed to be interviewed by the Commission, and by other representatives of the United States Government, during the 12-month period beginning on the date of the report.

Division II

SEC. 302B. MONITORING AND REPORTING ON COMMERCIAL ACTIVITIES BETWEEN UNITED STATES COMPANIES AND PEOPLE'S LIBERATION ARMY COMPANIES.

(a) MONITORING OF COMMERCIAL ACTIVITIES BETWEEN UNITED STATES COMPANIES AND PLA COMPANIES.—

(1) REQUIREMENT.—Beginning not later than 90 days after the date of enactment of this Act, the Commission, in cooperation with the Director of the Federal Bureau of Investigation, shall provide for the on-going monitoring of commercial activities, whether direct or indirect, between People's Liberation Army companies and United States companies.

(2) COORDINATION WITH OTHER FEDERAL AGENCIES.—

(A) IN GENERAL.—The monitoring required under paragraph (1) shall be carried out using the information, services, and assistance of any department or agency of the Federal Government, whether civilian or military, that the Director considers appropriate, including the Defense Intelligence Agency, the Central Intelligence Agency, and the United States Customs Service.

(B) COOPERATION.—The head of any department or agency of the Federal Government shall, upon request of the Director, provide the Federal Bureau of Investigation with such information, services, and other assistance in the monitoring required under paragraph (1) as the Director and the head of such department or agency jointly consider appropriate.

(b) ANNUAL REPORTS ON MONITORING.—

(1) REQUIREMENT.—Not later than six months after the date of enactment of this Act, and annually thereafter, the Commission, in cooperation with the Director of the Federal Bureau of Investigation, shall submit to Congress a report on the results of the monitoring activities carried out under subsection (a) during the one-year period ending on the date of the report.

(2) REPORT ELEMENTS.—Each report under this subsection shall set forth, for the one-year period covered by such report, the following:

(A) Information on the People's Liberation Army companies engaged in commercial activities with United States companies during such period, including—

(i) a list setting forth each People's Liberation Army company conducting business in the United States;

(ii) a list setting forth all People's Liberation Army products sold by United States companies to other United States companies or United States nationals;

(iii) a statement of the profits realized by the People's Liberation Army from the sale of products set forth in clause (ii) and on products sold directly to United States companies and United States nationals; and

(iv) a statement of the dollar amount spent for the purchase of the products covered by clause (iii).

(B) An assessment of the consequences for United States national security of the sale of People's Liberation Army products to United States companies and United States nationals, including—

(i) an assessment of the relationships between People's Liberation Army companies and United States companies;

(ii) an assessment of the use of the profits of such sales by the People's Liberation Army; and

(iii) a description and assessment of any technology transfers between United States companies and People's Liberation Army companies.

(3) FORM OF REPORT.—Each report under this subsection shall be submitted in unclassified form, but may contain a classified annex.

(c) DEFINITIONS.—In this section:

(1) PEOPLE'S LIBERATION ARMY COMPANY.—The term ''People's Liberation Army company'' means any commercial person or entity that is owned by, associated with, or an auxiliary to the People's Liberation Army, including any armed force of the People's Liberation Army, any intelligence service of the People's Republic of China, or the People's Armed Police.

(2) ORGANIZED UNDER THE LAWS OF THE UNITED STATES.—The term ''organized under the laws of the United States'' means organized under the laws of the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(3) UNITED STATES COMPANY.—The term ''United States company'' means a corporation, partnership, or other business association organized under the laws of the United States.

Division III

SEC. 302C. MONITORING AND REPORTING ON DEVELOPMENT OF SPACE CAPABILITIES.

(a) IN GENERAL.—The Commission shall, with the support of other United States Government agencies, monitor the development of military space capabilities in the People's Republic of China, including—

(1) the extent to which the membership of the People's Republic of China in the World Trade Organization facilitates its acquisition of space and space-applicable technologies;

(2) the extent to which commercial space revenues in the People's Republic of China support and enhance space activities in the People's Republic of China;

(3) the extent to which Federal subsidies for United States companies doing business in the People's Republic of China enhances space activities in the People's Republic of China;

(4) the extent to which the People's Republic of China proliferates space technology to other Nations; and

(5) the extent to which both manned and unmanned space activities in the People's Republic of China—

(A) support land, sea, and air forces of the People's Republic of China;

(B) threaten the United States and its allies; land, sea, and air forces and

(C) threaten the United States and its allies; military, civil, and commercial space assets of

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall include specific information on the nature of the technologies and programs relating to military space development by the Peoples Republic of China described in subsection (a). The report may contain separate classified annexes if necessary.

Division IV

SEC. 302D. MONITORING AND REPORTING ON COOPERATION ON ENVIRONMENTAL PROTECTION.

(a) IN GENERAL.—The Commission shall monitor and encourage the cooperation of the People's Republic of China in—

(1) the implementation and enforcement of laws for the protection of human health and the protection, restoration, and preservation of the environment that are at least as comprehensive and effective as comparable laws of the United States, including—

(A) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(B) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(C) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(D) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(E) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.);

(F) the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.);

(G) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(H) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(I) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(J) the Clean Air Act (42 U.S.C. 7401 et seq.);

(K) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(L) the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.); and

(M) the Pollution Prevention Act of 1990 (42 U.S.C. 13101 et seq.); and

(2) the allocation, for assisting and ensuring compliance with the laws specified in paragraph (1), of sufficient resources, including funds, to achieve material and measurable progress on a permanent basis in the protection of human health and the protection, restoration, and preservation of the environment.

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall also include, for the period for which the report is submitted, a description of the results of the monitoring required under subsection (a), including an analysis of any progress of the People's Republic of China in implementing and enforcing environmental laws as described in that subsection.

Division V

SEC. 302F. MONITORING AND REPORTING ON CONDITIONS RELATING TO ORPHANS AND ORPHANAGES.

(a) MONITORING.—The Commission shall monitor the actions of the People's Republic of China, and particularly the Ministry of Civil Affairs, to determine if the People's Republic of China has demonstrated that—

(1) the quality of care of orphans in the People's Republic of China has improved by providing specific data such as survival rates of orphans and the ratio of workers-to-orphans in orphanages;

(2) orphans are receiving proper medical care and nutrition;

(3) there is increased accountability of how public and private funds are spent with respect to the care of orphans;

(4) international adoption and Chinese adoptions are being encouraged; and

(5) efforts are being made to help children (and particularly children with special needs) get adopted.

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall also include a description of the results of the monitoring required under subsection (a), including what actions have been taken by the People's Republic of China with respect to improving the quality of care of orphans and encouraging international and Chinese adoptions.

Division VI

SEC. 302H. MONITORING AND REPORTING ON ORGAN HARVESTING AND TRANSPLANTING IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) MONITORING.—The Commission shall monitor the actions of the Government of the People's Republic of China with respect to its practice of harvesting and transplanting organs for profit from prisoners that it executes.

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall also include a description of the results of the monitoring required under subsection (a), including what actions have been taken by the People's Republic of China with respect to eliminating the practice of harvesting and transplanting organs for profit.

Mr. SMITH of New Hampshire. Mr. President, I realize we are in a tight time situation so I will be brief in explaining my situation because I have to be brief in explaining it.

This amendment proposes a number of commonsense additions. These all amend the section of the bill that creates a commission which is to monitor and report on Chinese activities.

The six subjects I am urging we include are very reasonable. I am amazed, really, they have not already been included in the commission's reporting responsibilities. Let me just list and give a brief line or two on each one.

The first division or item is monitoring and reporting on Chinese cooperation on POW and MIA issues. We all know that the Chinese Government possesses information about Americans who are missing from the Korean war—and perhaps even the Vietnam war, but certainly the Korean war; maybe World War II—which could bring closure to literally thousands of families. Yet this Government, the Chinese Government, has refused to provide us even basic information. In fact, it denies it even possesses this information when we know they do. So this amendment would merely let the American people know in an objective manner on this commission the extent to which the Chinese are not cooperating on this humanitarian issue.

The second item is monitoring and reporting on commercial activities between the United States and the People's Liberation Army. Currently, the Chinese People's Liberation Army directly or indirectly owns scores of businesses. They conduct commerce with U.S. companies. That includes the sale of products to U.S. consumers. So this amendment would simply require the FBI to monitor and report to Congress on the activities of the PLA's, the People's Liberation Army's, businesses here in the United States. Specifically, they would take data collected by the DIA, CIA, customs, and other agencies and report their findings to Congress on the dollar amount of PLA revenues and where these revenues are being directed within the Chinese military. This report will also monitor any technology transfers between PLA companies and U.S. companies, including an assessment of the impact upon the U.S. military, U.S. interests, and our allies. That is all it does. I think it is a very reasonable amendment and should be approved by the Senate.

The third item in the division is monitoring and reporting on development of Chinese space capabilities. We know the world has observed our military space advantage and has taken steps to acquire their own military space systems to counter ours. In particular, we have observed the Chinese are developing military space capabilities that could threaten the United States and threaten our allies' military, civilian, and commercial systems. Free and open trade, and the reduced vigilance free trade fosters, will facilitate the development and proliferation of space technology needed to expand Chinese space capabilities. This commission would monitor this activity and report on it so we would have good information as to exactly what was going on in that regard.

The fourth item is monitoring and reporting on the cooperation on environmental protection. Our Nation has some of the strongest environmental laws in the world. Yet Chinese companies can operate with lower costs and compete with U.S. companies because they do not have to comply with the same requirements that U.S. companies do.

If we are going to give permanent trade status to the country of China, then why not make them play by the same rules U.S. companies do? If you wonder why they can sell their clothes and other products over here so cheaply, that is one of the reasons they compete with us and can pay such low labor costs. They do not have to abide by the same regulations.

This amendment simply monitors the extent to which China is enforcing their own environmental regulations. We cannot dictate how they do that—they are their own nation—but we can monitor it and we can let the American people know that we are, by passing PNTR, saying we are going to ignore their environmental infractions and we are going to enforce ours. I think we ought to have that as part of this agreement.

The fifth division is monitoring and reporting on conditions relating to orphans and orphanages in China and the extent to which they are providing access to U.S. and international adoption agencies. Every year, untold numbers of Chinese baby boys and girls with special needs are left at state-run orphanages in horrible situations. Throughout the nineties, several human rights organizations revealed deplorable conditions and inhuman treatment. The death rates for these children are oftentimes astronomical. They are left to die of starvation. When we give all this wonderful treatment to the country of China, I hope we think about that and see if we have any concerns about these human rights violations.

My amendment would simply monitor and encourage China to determine that the quality and care of its orphans is improving by providing specific data on the survival rates of these children. Isn't that the least we can do if we are going to trade with them and help them? Why not help the children in China who are stuck in these orphanages.

Finally, No. 6, monitoring and reporting on organ harvesting and transplanting in the People's Republic of China. One of the most despicable, horrible acts of any nation in the world—and I cannot understand why we would look the other way and not even report and let the American people and the world know what they are doing. This amendment would task a commission with monitoring this barbaric and inhuman practice of literally taking organs involuntarily from executed prisoners. They are not prisoners executed and then having their organs taken after execution, they are executed in order to get the organs, so we understand what this is. We would require a report on the actions taken by the PRC to end organ harvesting.

In conclusion, this is a good amendment. There are six divisions. They are good divisions. I say to my colleagues who say we cannot amend this because it is going to mess up the whole PNTR issue, this is not messing up anything. This commission is going to monitor these six areas that are, for the most part, outrages really that the Chinese are allowed to get away with.

I urge the adoption of this amendment at the appropriate time. I thank my colleagues, and I yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001—Continued

The PRESIDING OFFICER. Under the previous order, the hour of 6:15 p.m. having arrived, the Senate will now proceed to the consideration of H.R. 4733, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4733) making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we are working on perhaps as many as 50 or 60 amendments trying to get them narrowed down to a very few contentious issues. On behalf of Senator REID, I think we can say we intend to finish tonight. We can try. I do not know how many votes we will have. In the meantime, we are still busy putting some language together.

Senator HUTCHISON has asked that I yield 10 minutes to her. I will speak for 1 minute of her time, and I think Senator DODD is going to use a couple minutes.

I ask unanimous consent that 10 minutes be set aside at this point for Senator HUTCHISON to talk about a bill she is introducing.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON, Mrs. FEINSTEIN, Mr. DODD, and Mr. DOMENICI pertaining to the introduction of S. 3021 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. First, I note the presence on the floor of the distinguished Senator from Nevada, Mr. REID.

Might I make a parliamentary inquiry?

We now are on the energy and water appropriations bill; is that correct, Mr. President?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. There is no time scheduled for its adoption or for termination of debate on the floor?

The PRESIDING OFFICER. There has been no time agreement.

Mr. DOMENICI. I say to Senators, I have talked with the majority leader, and I have talked to Senator HARKIN. Even though there is a very large number of amendments, we are trying to finish tonight. We have arranged to get started with two amendments. We are going to accept one; and one is going to require a vote. Then, when we finish debating those—we might have to put off the vote, I say to Senator DURBIN, for a little while while we work out all these amendments. But we will eventually, at some point, have a vote on Senator DURBIN's amendment before we finish this bill.

We are going to listen for 10, 15 minutes to Senator HARKIN's concerns about the NIF project at Lawrence Livermore. Senator REID and I have agreed we will accept his amendment tonight and proceed after that to debate Senator DURBIN's amendment.

I say to Senator DURBIN, a Senator who is opposed to his amendment will arrive soon. I assume we will have a time agreement, if it is satisfactory to Senator BOND.

Can we do that right now?

Mr. REID. Will the Senator yield?

Mr. DOMENICI. Sure.

Mr. REID. I underline what the Senator from New Mexico has said. My friend from Illinois has three amendments he has filed. It is my understanding that he is going to offer one of those; and if there would be an up-or-down vote on that, he would withdraw two of the amendments—and not only an up-or-down vote but no second-degree amendments.

So the Senator from Illinois would agree—if I could have the attention of the Senator from New Mexico for just a minute. The Senator from Illinois would agree to 30 minutes equally divided, with a vote, with no second-degree amendments. That is my understanding, that we would have a vote on that at some time before final passage later tonight.

Mr. DOMENICI. I say to the Senator, I wonder if he would agree to 20 minutes equally divided?

Mr. DURBIN. I will be prepared to withdraw two of the three amendments. I will be prepared to limit my debate to no more than 10 minutes on my side, if we can agree also that it be an up-or-down vote on the amendment, as offered.

Mr. DOMENICI. We will have an up-or-down vote. We checked that with the opposition. It is not me agreeing. He wants to agree to that. So when he arrives, there will be 10 minutes on a side. I say to the Senator, you will agree to withdraw your other two amendments and proceed with the amendment with reference to the Missouri River that we have seen?

Mr. DURBIN. I will be happy to.

Mr. DOMENICI. Can we get an agreement with Senator HARKIN?

Mr. HARKIN. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. DOMENICI. I wonder if the Senator would let me have a minute?

Mr. HARKIN. Yes.

Mr. DOMENICI. I say to Senator DURBIN—I just got word—I hear Senator BOND is en route and that he did not say that he would agree to no amendments. I think he will when he gets to the floor, but I just want to make clear I probably overspoke. I thought he had said that.

Can we just wait for him to arrive?

Mr. DURBIN. I say to my friend, we will revisit it when he is on the floor.

Mr. DOMENICI. How much time does the Senator want on his amendment?

Mr. HARKIN. If I may have 15 minutes, that would be fine.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa has 15 minutes.

The clerk has yet to report the amendment. The amendment at the desk is not the same as the one filed. It will require unanimous consent to substitute.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4101, AS MODIFIED

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendment I sent to the desk be substituted for the earlier amendment I had on file.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 4101, as modified.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To limit to $74,100,000 the total amount of funds that may be expended for construction of the National Ignition Facility)

On page 90, between lines 6 and 7, insert the following:

SEC. 320. (a) LIMITATION ON TOTAL COST OF CONSTRUCTION OF NATIONAL IGNITION FACILITY.—Notwithstanding any other provision of law, the total amount that may be expended for purposes of construction of the National Ignition Facility, including conceptual and construction design associated with the Facility, may not exceed $74,100,000.

(b) INDEPENDENT REVIEW OF NATIONAL IGNITION FACILITY.—(1) The Administrator of the National Nuclear Security Administration shall provide for an independent review of the National Ignition Facility and the Inertial Confinement Fusion Program. The review shall be conducted by the National Academy of Sciences.

(2) The review under paragraph (1) shall address the following:

(A) Whether or not the National Ignition Facility is required in order to maintain the safety and reliability of the current nuclear weapons stockpile.

(B) Whether or not alternatives to the National Ignition Facility could achieve the objective of maintaining the safety and reliability of the current nuclear weapons stockpile.

(C) Any current technical problems with the National Ignition Facility, including the effects of such problems on the cost, schedule, or likely success of the National Ignition Facility project.

(D) The likely cost of the construction of the National Ignition facility, including any conceptual and construction design and manufacture associated with construction of the Facility.

(E) The potential effects of cost overruns in the construction of the National Ignition Facility on the stockpile stewardship program.

(F) The cost and advisability of scaling back the number of proposed beamlines at the National Ignition Facility.

(3) Not later than September 1, 2001, the Administrator shall submit to Congress a report on the review conducted under this subsection. The report shall include the results of the review and such comments and recommendations regarding the results of the review as the Administrator considers appropriate.

Mr. HARKIN. Mr. President, this amendment has to do with the so-called NIF. I will use that acronym.

The National Ignition Facility is a massive research facility being built at the Department of Energy's Lawrence Livermore Labs in California. NIF supposedly—I use that word ''supposedly''—was a part of the Stockpile Stewardship Program which is supposed to maintain the safety and reliability of our nuclear arsenal without exploding any nuclear weapons.

As many of my colleagues are aware, this is a deeply troubled program. The General Accounting Office recently issued a report that detailed management turmoil, cost overruns, slipping schedules, and unsolved technical problems. I am deeply concerned that we will pour more and more money into NIF, money that could be used for other scientific purposes. NIF appears to be mostly a jobs program for nuclear weapons scientists. That is the point.

Let me review the history of the cost projections for the National Ignition Facility. In 1990, a National Academy of Sciences panel estimated we could achieve ignition with a $400 million facility. They called it a reasonable cost. Then it went up to $677 million in 1993. Then it went up to $2.1 billion this past June for construction costs and another $1.1 billion for operation before it is completed. Then in August, the GAO found that the Department of Energy has still neglected to include the cost of targets and other parts of the program. They have now suggested a total cost of close to $4 billion. It is going up all the time. We were up to $4 billion in August. Outside experts, adding in operation costs for another 25 years, the uncertainties because research and development are underway, estimate the life-cycle costs are now somewhere upwards of about $10 billion and counting. This is not a reasonable cost; it is a massive public boondoggle.

I will say that at this point—and I will say it again and again until we finally resolve this issue of the National Ignition Facility—if you liked the Clinch River breeder reactor that we debated here almost 20 years ago, that we poured billions of dollars into before we finally got rid of it, if you liked the Clinch River breeder reactor, you will love this program. If you liked the Superconducting Super Collider, you would like this program.

Under Clinch River, we spent $1.5 billion before we finally killed it. It was projected to cost $3.5 billion. We thought that was outlandish. On the Superconducting Super Collider, we spent $2.2 billion. It was estimated to cost over $11 billion. We heard all the arguments; I remember them well. I was involved in both debates on Clinch River and on the Superconducting Super Collider: We have spent all that money; we are just going to let it go to waste.

We heard those arguments over and over again: Once we put that money in, we have to complete it.

I ask you, are we worse off as a country now because we did not build the Clinch River breeder reactor; we came to our senses in time? Are we worse off as a country because we came to our senses in time and did not complete the Superconducting Super Collider? Not at all. We are better off because we saved the money. Now we are down to the National Ignition Facility, another one of the big boondoggles of all time.

We have spent about $800 million, give or take a few. It is estimated to cost about $4 billion—slightly more than the Clinch River breeder reactor—and counting, as I said. Four billion is just one of the most recent estimates. It is going to be more than that. Yet we are hearing: Well, we have spent the $800 million; we ought to keep spending the money.

As this National Ignition Facility continues, keep in mind the Clinch

River breeder reactor, keep in mind the Superconducting Super Collider. Ask yourselves if we didn't do the right thing by stopping those at the time and saving our taxpayers money.

We have had a lot of problems with NIF. They have repeatedly tried to hide the true costs of the project. In fact, DOE and lab officials told GAO that they deliberately set an unrealistically low initial budget because they feared Congress would not fund a realistic one.

This is directly from the GAO report:

> DOE and Laboratory officials associated with NIF told us that they recognized it would cost more than planned, but that they accepted this unrealistic budget in the belief that Congress would not fund NIF at a higher cost. . . .

They lied to us. They simply lied to us. They admitted it to GAO. Now they want more money. Is this what we reward? Is this the kind of good stewardship we reward?

We had an independent review last year that was supposed to come to Congress. The lab and DOE officials edited it before we got it. They have hidden problems from DOE. When Secretary Richardson praised the project out at Livermore last year, he proclaimed it on cost and on schedule. But the lab officials knew it was actually over budget and far behind. They had known it for months. They simply just did not tell the Secretary of Energy.

So what is this NIF? Why is it necessary? NIF is a stadium-sized building in which they plan to place 192 lasers all pointed at one very small BB-sized, even smaller pellet. When all these lasers fire at one time, it is going to create a lot of heat, a lot of pressure, hopefully, as they say, to create nuclear fusion. These weapons scientists hope they will achieve ignition; that is, to get more energy from the fusion than they put in with the lasers.

The stated purposes of NIF: One, to simulate conditions in exploding nuclear weapons; two, to maintain a pool of nuclear weapon scientists at Livermore; and three, to conduct basic research towards fusion energy.

Let me take the last one first. In the House I was on the Science and Technology Committee for 10 years. We had a lot of dealings with Lawrence Livermore at that time on something called Shiva, a big laser project. It cost us hundreds of millions of dollars. They were going to prove they could develop inertial confinement laser fusion energy. We spent a lot of money on it. It is now on the scrap heap someplace. We wasted a lot of money on that project, too.

Again, let me talk about the stockpile stewardship. It may be true that NIF would provide useful data for simulating nuclear weapons explosions. But we don't need that data to maintain the nuclear arsenal we have today. For decades, we have assured the safety and reliability of our nuclear weapons with a careful engineering program.

First of all, all the weapons we have in our stockpile were tested in more than 1,000 nuclear tests prior to the ban on nuclear explosions—1,000 of them. Secondly, in addition, every year, 11 weapons of each type are removed from the stockpile, taken apart, disassembled, and the components are carefully examined and tested for any signs of aging or other problems. All of the components can be tested, short of creating an actual nuclear explosion. If any problems are found, components can be remanufactured to original specifications.

So far, the evidence indicates that the weapons are not noticeably aging. These activities we have underway right now are low cost. Yet they provide a secure and tested way of maintaining our present nuclear stockpile. We don't need a $4 billion facility at Lawrence Livermore to do what we are doing right now. We can and will continue these surveillance activities of our stockpile.

The kind of detailed information on nuclear explosions that NIF could provide is needed only to modify weapons or design new ones. But we don't need to design any new nuclear weapons. Indeed, the more changes we make, the further we will move from the nuclear tests we have conducted and the less confident we can be that our nuclear weapons will work as intended.

In short, we have conducted over 1,000 nuclear explosions and tests. We have designed, redesigned, compacted, made smaller specifically designed nuclear weapons. We don't need the NIF for any more design, but that is what they intend to do with it. That is why scientists of widely divergent views on other issues agree we do not need NIF for stockpile stewardship.

Edward Teller, known as the father of the hydrogen bomb, when asked what role NIF would have in maintaining the nuclear stockpile, replied, ''None whatsoever.''

Robert Puerifoy, former vice president of Sandia Lab, said, ''NIF is worthless . . . it can't be used to maintain the stockpile, period.''

Seymour Sack, a former weapons scientist at Livermore, called NIF ''worse than worthless'' for stockpile stewardship.

Again, the NIF facility also cannot be justified for basic science or fusion energy research. About 85 percent of the planned experiments are for nuclear weapons physics. Most of the remainder are on nuclear weapons effects. So there is precious little left for any kind of basic or applied sciences.

What we are left with is a $4 billion full employment program for a few nuclear weapons scientists. We can do better than that. We certainly do need to maintain some nuclear weapons expertise as long as we maintain nuclear weapons. As I have said, there is a better way and a cheaper way than spending billions of dollars on construction contracts. It makes absolutely no sense to spend these billions when we have a well-settled, time-tested, proven way of making sure our nuclear stockpile is safe and is workable.

So not only is NIF not needed for this stockpile stewardship, but as the cost of this facility continues to escalate, it is going to steal funding from other stockpile stewardship activities. Just as we found that the Superconducting Super Collider was going to steal from other basic physics research, and as we found the Clinch River breeder reactor would take other needed energy programs, NIF is going to do the same thing.

The administration has requested an additional $135 million for construction of NIF this year, and that is going to be taken from other stockpile stewardship activities, in addition to the $74 million that is in this bill. So if you think we are only spending $74 million on NIF, forget it. They have already requested to transfer another $135 million from other activities.

The administration has requested an even larger increase for fiscal year 2002, $180 million, and hundreds of millions of dollars more in future years. Again, I submit that we will be starving basic science programs and physics programs in order to get the money to build this project at Lawrence Livermore.

Even Sandia Lab has publicly expressed concern. They said in a statement earlier this year:

> The apparent delay and significant increase in cost for the NIF is sufficient that it will disrupt the investment needed to be made at the other laboratories, and perhaps at the production plants, by several years. This causes us to question what is a reasonable additional investment in the National Ignition Facility.

Lastly—and I will end on this note—even if it is built, the National Ignition Facility may never achieve ignition. Even Lawrence Livermore's NIF project manager, Ed Moses, suggested, ''The goal of achieving ignition is a long shot.'' Physicist Leo Mascheroni is quoted in the August 18 issue of Science magazine as saying, ''From my point of view, the chance that this reaches ignition is zero. Not 1 percent. Those who say 5 percent are just being generous to be polite.'' Well, there you have it.

If it does work, the NIF may itself be a nuclear proliferation threat. The Lawrence Livermore Institutional Plan describes the main purpose of NIF:

> To play an essential role in assessing physics regimes of interest in nuclear weapons design and to provide nuclear weapon-related physics data, particularly in the area of secondary design.

So that is what it is for—designing new nuclear weapons. But we don't need to. It is of dubious value in maintaining the stockpile when we already have, as I said, a time-tested, proven way of doing so.

Well, Mr. President, the amendment I offered basically leaves the $74.1 million that is in the bill. But it only says that was all they could use right now. My amendment says the administrators of the National Nuclear Security

Administration shall provide for an independent review of the NIF and the Inertia Confinement Review Program. This review shall be conducted by the National Academy of Sciences.

I have asked that the review address the following: whether it is required in order to maintain the reliability and safety of the stockpile; whether or not the alternatives could achieve the same objective; any current technical problems that we have; the likely cost of the construction; the potential effects of cost overruns; lastly, the cost and availability of scaling back the number of proposed beam lines at the NIF.

Basically, what I am saying is let's put the money in that we have now, but let's have the National Academy of Sciences do an independent study that would not be reviewed and edited by Lawrence Livermore, and this report would be submitted by September of 2001. That is really what this amendment does. I am grateful to the manager and the chairman of the committee for accepting the amendment.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, before my friend from New Mexico speaks, I want to tell my friend from Iowa how appreciative I am of him bringing this to the floor. With his statement tonight, he has made it so the National Ignition Facility will be given a much closer look. It needs to be looked at much more closely. I already have a statement in the RECORD, and I don't need to repeat how I feel about this whole project. I want to acknowledge to my friend what a great service he has rendered to the country by his statement tonight.

Mr. HARKIN. Mr. President, I say to the Senator from Nevada that we really started questioning this because of some of the information the Senator from Nevada was given by officials from the DOE in Lawrence Livermore. That raised a lot of questions about where we were headed.

I thank the Senator from Nevada for his leadership on this issue.

Mr. DOMENICI. Mr. President, the Senator from Arizona wants to use a few minutes on this discussion. But before we do that, I wonder if I can get a unanimous consent agreement that has been cleared by both sides.

I ask unanimous consent that a vote occur on the Durbin amendment at 8 p.m. and there be up to 20 minutes of debate to be equally divided prior to the vote and no second-degree amendments be in order prior to the vote.

Second, I ask unanimous consent that prior to the vote on the Durbin amendment Senator HARKIN be recognized to offer his amendment—which he has already offered—the National Ignition Facility amendment, that time on the amendment be limited to 30 minutes for the full debate; that no second-degree amendments be in order; that Senator HARKIN has used his time, and we will not use 15 minutes on our side.

I further ask unanimous consent that prior to the vote relative to the Durbin amendment the two managers be recognized to offer all the cleared amendments and amendments that we have to modify to get cleared;

And, finally, I ask unanimous consent that immediately following the disposition of the Durbin amendment the bill be advanced to third reading, the Senate proceed to passage of H.R. 4733, following the passage of the bill the Senate insist on its amendments and request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate which would be the entire subcommittee.

Mr. REID. Mr. President, reserving the right to object, I would like to make sure it is clear that the Senator from Illinois will have an up-or-down vote on his amendment and that there will be no motion to table.

Mr. DOMENICI. That is correct. I think I said that. I am glad to have the clarification.

Mr. REID. Also, even though this isn't part of the unanimous consent request, because we have so much, I wonder if we could have some general idea about how long the Senator from Arizona wishes to speak.

Mr. KYL. Five minutes.

Mr. REID. Could we make that part of the unanimous consent agreement?

Mr. DOMENICI. Yes.

Mr. HARKIN. Mr. President, I did not hear what the Senator from New Mexico said about my amendment.

Mr. DOMENICI. We were offering this as if the Senator had not given it, and I was trying to say he already has. I thank the Senator for asking.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona.

Mr. KYL. Mr. President, I appreciate Senator DOMENICI yielding some time to me.

I think, while we have accepted this amendment, it is important that the RECORD be corrected because Senator HARKIN said some things that I believe not to be correct.

I also think that we need to be careful about how we act around here.

The fact that some people made some estimates as to how much it was going to cost to construct the National Ignition Facility and in fact were greatly underestimating the cost of the facility should not be a reason for us to suggest that this facility is unnecessary. They suggest that it is a ''boondoggle,'' to use the word of the Senator from Iowa. They suggest that it is in the same category of some other discretionary projects which we end up not funding in Congress. In fact, the Senator from Iowa and others recognized its importance in their support for the Comprehensive Test Ban Treaty when they argued that we didn't need testing any more because we were going to have this wonderful Stockpile Stewardship Program, a part of which is the ignition facility, and, therefore, they were willing to rely upon the Stockpile Stewardship Program and the National Ignition Facility in lieu of testing forevermore. We are going to give up testing forevermore, Senator HARKIN and others who supported the test ban treaty said.

Now they are saying: Well, actually we don't need the National Ignition Facility, in our opinion. We are willing to submit the question of whether it is needed to some extraneous body.

But I will tell you that I visited with the head of the Lawrence Livermore Lab yesterday, and I talked to any number of Department of Defense and Department of Energy officials, as well as lab people, and every one of them will confirm that the National Ignition Facility is a critical component of the Stockpile Stewardship Program. Without it, eventually the Stockpile Stewardship Program provides you nothing in terms of data. And, indeed, our National Laboratories would probably not be able to certificate the stockpile of the United States, which, of course, would require advertising—something I know the Senator from Iowa would not want.

The National Ignition Facility is a key component of the Stockpile Stewardship Program because it will actually allow an event to occur that simulates a nuclear explosion. Calculations can then occur based upon that event to either confirm or deny the theory that the scientists have developed that they plugged into the computers.

But there is a point at which you can run all the calculations you want. Unless you have something to compare them to, some real event, they are worthless or meaningless.

That is why the ignition facility is so important. Even though it is a little miniature thing—it is not like a big nuclear explosion—it can provide them with the data they need to then validate the theories of the Stockpile Stewardship Program which they have run on their computers.

The argument of the Senator from Iowa, it seems to me, is a little bit like this: He loans the family car out to his son for a date. He says: Be careful, son. Be in by midnight. The son comes back at midnight: Gee, dad. I am sorry, I wrecked the car. The dad says: It is such a horrible thing you did that we are not going to repair the car. You are cutting off your nose to spite your face.

It is true that the cost of this program has gone up. I believe it has gone up because of mistakes that were made on the part of the laboratory in deciding how much this was going to cost.

It is easy for us to stand up and criticize it and say you all made a mistake. That is easy to do. I will join my colleague in that criticism. But what do you do about it? Do you decide you are not going to go ahead with the facility that all of the experts say is critical because it is going to cost more? That is true. But it is still critical. You

can't just say because it is going to cost more than we thought that we are just going to give up on the whole project. At least you can't advocate the Stockpile Stewardship Program, as I know my colleague from Iowa is.

I want to make this point, even though this amendment is going to be accepted. I am hopeful and I presume that it will not be a part of the final legislation that goes to the President for his signature. It would be wrong to cap the funding on this, and it would be wrong to assume that the National Ignition Facility is not a critical part of the Stockpile Stewardship Program.

I want to be able to correct the record so we don't leave any misimpression that somehow this is a discretionary program, that we may not need it, and because it is going to cost somewhat more than we thought, therefore we should be willing to jettison it.

It is a critical component to ensure the viability, the reliability, and the safety of our nuclear stockpile. I assume every one of us in this room is very firmly committed to the proposition that the nuclear stockpile of the United States must be safe and reliable, and if it takes this National Ignition Facility to ensure that, then we ought to be willing to support it even if it is going to cost a little bit more than we originally anticipated.

I appreciate the strong work of the Senator from New Mexico on this, and his willingness to yield me this time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank Senator KYL. I believe that is the end of the discussion, unless the Senator from Iowa wanted a couple of minutes.

Mr. HARKIN. Another minute.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank my friend from Arizona. I think what Senator KYL has said indicates why we need a little bit more robust debate on this issue than what we are having tonight. I know it is late. We are moving on. But I really think we need to have a pretty involved discussion and debate on this issue. Obviously, we have a disagreement on this issue. Again, I agree with the Senator from Arizona that we want our stockpiles to be safe and reliable. The question is, What is the best methodology to accomplish that at the cheapest cost to the taxpayers and that perhaps will not open the door to other problems down the road while we might agree upon the basis of how we get there? That is why I think we really need a more robust debate on this issue of the National Ignition Facility than what we have had in the past.

Businesses disagree on this. Scientists disagree on it. Obviously, politicians are disagreeing on it. That is why on this one, which is going to cost a lot of money, I hope that next year—we will not this year, but I hope next year—we can keep this study. I hope we do have the study, as the Senator from Arizona said, by some outside body. The amendment calls for the National Academy of Sciences to do it. I can't think of a more appropriate body to do an independent analysis of the study than the National Academy of Sciences, where they can call on a broad variety of different disciplines to have input.

I hope we at least have that and come back next year. Let's have a more robust and more involved debate on whether or not we really want to continue with the National Ignition Facility.

Mr. KYL. Mr. President, I ask unanimous consent that a document entitled ''National Ignition Facility (NIF)—An Integral Part of the Stockpile Stewardship Program'' be printed in the RECORD to make the point that the Clinton administration and five laboratory directors believe this is a critical project and that at least $95 million is necessary in fiscal year 2001 for the NIF projects.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL IGNITION FACILITY (NIF)—AN INTEGRAL PART OF THE STOCKPILE STEWARDSHIP PROGRAM

The NNSA is currently in the process of developing its long-term plan for the Stockpile Stewardship Program (SSP). This plan will address all elements needed to maintain the safety, security, and reliability of the nation's nuclear weapons stockpile now and into the future, including science, infrastructure, and people.

NIF supports the SSP, and is a vital element of the SSP in three important ways: (1) the experimental study of issues of aging or refurbishment; (2) weapons science and code development; and (3) attracting and training the exceptional scientific and technical talent required to sustain the SSP over the long term. NIF is an integral part of the SSP providing unique experimental capabilities that complement other SSP facilities including hydrotests, pulsed power, and advanced radiography. NIF addresses aspects of the relevant science of materials that cannot be reached in other facilities.

We concur that the NIF offers a unique, critical capability within a ''balanced'' SSP. As with other elements of the SSP, its long-term role must be integrated within the overall requirements of the Program. Options should not be foreclosed or limited but should be maintained to allow for its further development. At this critical juncture, we agree that in order to maintain the NIF within a balanced program an additional $95 million is necessary in FY 2001 for the NIF Project.

MADELYN R. CREEDON,
NNSA.
C. BRUCE TARTER, LLNL.
JOHN C. BROWNE, LANL.
C. PAUL ROBINSON, SNL.

Date: September 6, 2000.

Mr. SCHUMER. Mr. President, I want to thank Senator HARKIN for modifying his amendment to the Energy and Water Appropriations bill. The original amendment would have eliminated construction money for the National Ignition Facility (NIF) which is an essential component to our Stockpile Stewardship Program. Any elimination of funding for the program would negate the nearly $1 billion Congress has spent on this project thus far, and would cripple our nation's arms control and non-proliferation efforts. Still, the amendment agreed to does limit the amount of funding for Fiscal Year 2001 which will make it increasingly difficult to meet the goals of the project.

The United States has made a strong commitment against underground nuclear testing. In order to meet this goal and maintain the nuclear deterrent of the United States, we must have a safe, reliable, and effective science based Stockpile Stewardship Program (SSP).

As a key element to the SSP, NIF will be the only facility able to achieve conditions of temperature and pressure in a laboratory setting that have only been reached in explosions of thermonuclear weapons and in the stars. It is expected to provide important contributions to the goals of stockpile stewardship in the absence of nuclear testing and to contribute to the advancement of inertial fusion energy and other scientific research efforts.

I am proud that institutions and contractors throughout New York State have provided valuable services and tools for this project that are essential to its completion. Because New York companies and research institutions provide laser, optics, and other tools, underground nuclear testing will no longer be necessary. That would be a huge benefit to the entire world.

I understand that DOE has recognized that there are some problems with NIF, but DOE is working hard to take the necessary steps to correct these issues. Project management has been restructured and has demonstrated over the last six months that it is capable of managing a project of this scope. It has already been determined that the underlying science associated with NIF is sound.

Until DOE's investigation is complete, it is premature to cut funding for this program. The cost increases should not override the importance of this project in our goal to ensure the safety and reliability of our nuclear weapons.

Any repeal of this funding will cripple the valuable science and knowledge that is coming together from around the world in our effort to maintain the United States nuclear deterrent.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4101) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 4024, 4032, 4033, 4039, 4040, 4042, 4046, 4047, 4057, 4062, 4063, 4067, 4068, 4069, 4070, 4071, 4072, 4073, 4074, 4076, 4077, 4078, 4083, 4085, 4088, 4093, 4100, 4102, AND 4103, EN BLOC

Mr. DOMENICI. Senator REID and I have jointly reviewed and considered a

large number of amendments filed by our colleagues, to which we can agree. This is a little bit unique because all are filed, all have numbers, and all are, therefore, reviewable by anybody desiring to review them.

I send to the desk a list of those amendments and ask they be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. The clerk will report the amendments, en bloc.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments Nos. 4024, 4032, 4033, 4039, 4040, 4042, 4046, 4047, 4057, 4062, 4063, 4067, 4068, 4069, 4070, 4071, 4072, 4073, 4074, 4076, 4077, 4078, 4083, 4085, 4088, 4093, and 4100, 4102, and 4103, en bloc.

The amendments are as follows:

AMENDMENT NO. 4024

(Purpose: To authorize the Corps of Engineers to include an evaluation of flood damage reduction measures in the study of Southwest Valley Flood Reduction, Albuquerque, New Mexico)

On page 47, line 18 before the period, insert the following: '': *Provided*, That in conducting the Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico, the Secretary of the Army, acting through the Chief of Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding, the drainage areas, and the amount of runoff''.

AMENDMENT NO. 4032

Starting on page 64, line 24, strike all through page 66, line 7.

AMENDMENT NO. 4033

(Purpose: To establish a Presidential Energy Commission to expore long- and short-term responses to domestic energy shortages in supply and severe spikes in energy prices)

On page 93, between lines 7 and 8, insert the following:

GENERAL PROVISIONS—INDEPENDENT AGENCIES

SEC. 4___. PRESIDENTIAL ENERGY COMMISSION.

(a) FINDINGS.—Congress finds that—

(1) crude oil and natural gas account for two-thirds of America's energy consumption;

(2) in May 2000, United States natural gas stocks totaled 1,450 billion cubic feet, 36 percent below the normal natural gas inventory of 2,281 billion cubic feet;

(3) in July 2000, United States crude oil inventories totaled 298,000,000 barrels, 11 percent below the 24-year average of 334,000,000 barrels;

(4) in June 2000, distillate fuel (heating oil and diesel fuel) inventories totaled 103,700,000 barrels, 26 percent below the 24-year average of 140,000,000 barrels;

(5) combined shortages in inventories of natural gas, crude oil, and distillate stocks, coupled with steady or increased demand, could cause supply and price shocks that would likely have a severe impact on consumers and the economy; and

(6) energy supply is a critical national security issue.

(b) PRESIDENTIAL ENERGY COMMISSION.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall establish, from among a group of not fewer than 30 persons recommended jointly by the Speaker and Minority Leader of the House of Representatives and the Majority Leader and Minority Leader of the Senate, a Presidential Energy Commission (referred to in this section as the ''Commission''), which shall consist of between 15 and 21 representatives from among the following categories:

(i) Oil and natural gas producing States.

(ii) States with no oil or natural gas production.

(iii) Oil and natural gas industries.

(iv) Consumer groups focused on energy issues.

(v) Environmental groups.

(vi) Experts and analysts familiar with the supply and demand characteristics of all energy sectors.

(vii) The Energy Information Administration.

(B) TIMING.—The appointments of the members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(C) PERIOD OF APPOINTMENT.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(D) CHAIRPERSON.—The members of the Commission shall appoint 1 of the members to serve as Chairperson of the Commission.

(E) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(F) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(2) DUTIES.—

(A) IN GENERAL.—The Commission shall—

(i) conduct a study, focusing primarily on the oil and natural gas industries, of—

(I) the status of inventories of natural gas, crude oil, and distillate fuel in the United States, including trends and projections for those inventories;

(II) the causes for and consequences of energy supply disruptions and energy product shortages nationwide and in particular regions;

(III) ways in which the United States can become less dependent on foreign oil supplies;

(IV) ways in which the United States can better manage and utilize its domestic energy resources;

(V) ways in which alternative energy supplies can be used to reduce demand on traditional energy sectors;

(VI) ways in which the United States can reduce energy consumption;

(VII) the status of, problems with, and ways to improve—

(aa) transportation and delivery systems of energy resources to locations throughout the United States;

(bb) refinery capacity and utilization in the United States; and

(cc) natural gas, crude oil, distillate fuel, and other energy-related petroleum product storage in the United States; and

(VIII) any other energy-related topic that the Commission considers pertinent; and

(ii) not later than 180 days after the date of enactment of this Act, submit to the President and Congress a report that contains—

(I) a detailed statement of the findings and conclusions of the Commission; and

(II) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

(B) TIME PERIOD.—The findings made, analyses conducted, conclusions reached, and recommendations developed by the Commission in connection with the study under subparagraph (A) shall cover a period extending 10 years beyond the date of the report.

(c) USE OF FUNDS.—The Secretary of Energy shall use $500,000 of funds appropriated to the Department of Energy to fund the Commission.

(d) TERMINATION OF COMMISSION.—The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under subsection (b)(2)(A)(ii).

AMENDMENT NO. 4039

(Purpose: To provide for funding of innovative projects in small rural communities in the Mississippi Delta to demonstrate advanced alternative energy technologies)

On page 67, line 4, strike ''Fund:'' and insert ''Fund, of which an appropriate amount shall be available for innovative projects in small rural communities in the Mississippi Delta, such as Morgan City, Mississippi, to demonstrate advanced alternative energy technologies, concerning which projects the Secretary of Energy shall submit to Congress a report not later than March 31, 2001:''.

AMENDMENT NO. 4040

(Purpose: To require an evaluation by the Department of Energy of the Adams process)

On page 90, between lines 6 and 7, insert the following:

SEC. 320. (a) FINDING.—Congress finds that the Department of Energy is seeking innovative technologies for the demilitarization of weapons components and the treatment of mixed waste resulting from the demilitarization of such components.

(b) EVALUATION OF ADAMS PROCESS.—The Secretary of Energy shall conduct an evaluation of the so-called ''Adams process'' currently being tested by the Department of Energy at its Diagnostic Instrumentation and Analysis Laboratory using funds of the Department of Defense.

(c) REPORT.—Not later than September 30, 2001, the Secretary of Energy shall submit to Congress a report on the evaluation conducted under subsection (b).

AMENDMENT NO. 4042

(Purpose: To provide funding for a topo/bathy study of coastal Louisiana)

Insert the following at the end of line 18, page 47 before the period. '':*Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $200,000, of funds appropriated herein for Research and Development, for a topographic/bathymetric mapping project for Coastal Louisiana in cooperation with the National Oceanic and Atmospheric Administration at the interagency federal laboratory in Lafayette, Louisiana.''

AMENDMENT NO. 4046

On page 67, line 9, after ''activities'' insert the following: '', and *Provided Further*, That, of the amounts made available for energy supply $1,000,000 shall be available for the Office of Arctic Energy.''

AMENDMENT NO. 4047

(Purpose: To direct the Secretary of Energy to submit to Congress a report on national energy policy)

On page 90, between lines 6 and 7, insert the following:

SEC. 3___. REPORT ON NATIONAL ENERGY POLICY.

(a) FINDINGS.—Congress finds that—

(1) since July 1999—

(A) diesel prices have increased nearly 40 percent;

(B) liquid petroleum prices have increased approximately 55 percent; and

(C) gasoline prices have increased approximately 50 percent;

(2)(A) natural gas is the heating fuel for most homes and commercial buildings; and

(B) the price of natural gas increased 7.8 percent during June 2000 and has doubled since 1999;

(3) strong demand for gasoline and diesel fuel has resulted in inventories of home heating oil that are down 39 percent from a year ago;

(4) rising oil and natural gas prices are a significant factor in the 0.6 percent increase in the Consumer Price Index for June 2000 and the 3.7 percent increase over the past 12 months;

(5) demand for diesel fuel, liquid petroleum, and gasoline has continued to increase while supplies have decreased;

(6) the current energy crisis facing the United States has had and will continue to have a detrimental impact on the economy;

(7) the price of energy greatly affects the input costs of farmers, truckers, and small businesses; and

(8) on July 21, 2000, in testimony before the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary of Energy stated that the Administration had developed and was in the process of finalizing a plan to address potential home heating oil and natural gas shortages.

(b) REPORT.—Not later than September 30, 2000, the Secretary of Energy shall submit to Congress a report detailing the Department of Energy's plan to address the high cost of home heating oil and natural gas.

AMENDMENT NO. 4057

(Purpose: Concentrating Solar Demonstration Project)

Insert at the end of line 9, page 67 of the bill ''; *Provided, further,* That $1,000,000 is provided to initiate planning of a one MW dish engine field validation power project at UNLV in Nevada''.

AMENDMENT NO. 4062

(Purpose: To provide $4,000,000 for the demonstration of an underground mining locomotive and an earth loader powered by hydrogen in Nevada)

On page 67, line 4, after the word ''Fund:'' insert the following: ''*Provided,* That $4,000,000 shall be made available for the demonstration of an underground mining locomotive and an earth loader powered by hydrogen at existing mining facilities within the State of Nevada. The demonstration is subject to a private sector industry cost-share of not less than equal amount, and a portion of these funds may also be used to acquire a prototype hydrogen fueling appliance to provide on-site hydrogen in the demonstration.''

AMENDMENT NO. 4063

(Purpose: To provide $5,000,000 to demonstrate a commercial facility employing thermo-depolymerization technology)

On page 67, line 4, after the word ''Fund:'' insert the following: ''*Provided,* That, $5,000,000 shall be made available to support a project to demonstrate a commercial facility employing thermo-depolymerization technology at a site adjacent to the Nevada Test Site. The project shall proceed on a cost-share basis where Federal funding shall be matched in at least an equal amount with non-federal funding.''

AMENDMENT NO. 4067

(Purpose: To provide that the Tennessee Valley Authority shall not proceed with a sale of mineral rights in land within the Daniel Boone National Forest, Kentucky, until after the Tennessee Valley Authority completes an environmental impact statement)

On page 97, after line 14, insert the following:

SEC. 7 . SALE OF MINERAL RIGHTS BY THE TENNESSEE VALLEY AUTHORITY.

The Tennessee Valley Authority shall not proceed with the proposed sale of approximately 40,000 acres of mineral rights in land within the Daniel Boone National Forest, Kentucky, until after the Tennessee Valley Authority completes an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

AMENDMENT NO. 4068

On page 47, line 18 after the phrase ''to remain available until expended'' insert the following:''; *Provided,* That $50,000 provided herein shall be for erosion control studies in the Harding Lake watershed in Alaska.''

AMENDMENT NO. 4069

(Purpose: To provide $2,000,000 for equipment acquisition for the Incorporated Research Institutions for Seismology (IRIS) PASSCAL Instrument Center)

At the appropriate place in the bill providing funding for Defense Nuclear Nonproliferation, insert the following: ''*Provided further,* That $2,000,000 shall be provided for equipment acquisition for the Incorporated Research Institutions for Seismology (IRIS) PASSCAL Instrument Center.''

AMENDMENT NO. 4070

(Purpose: To provide $3,000,000 to support a program to apply and demonstrate technologies to reduce hazardous waste streams that threaten public health and environmental security along the U.S.-Mexico border; and to provide $2,000,000 for the Materials Corridor Partnership Initiative)

On page 73, line 22, after the word ''expended'', insert the following: ''*Provided,* That, $3,000,000 shall be made available from within the funds provided for Science and Technology to support a program to be managed by the Carlsbad office of the Department of Energy, in coordination with the U.S.-Mexico Border Health Commission, to apply and demonstrate technologies to reduce hazardous waste streams that threaten public health and environmental security in order to advance the potential for commercialization of technologies relevant to the Department's clean-up mission. Provided further, That $2,000,000 shall be made available from within the funds provided for Science and Technology to support a program to be managed by the Carlsbad office of the Department of Energy to implement a program to support the Materials Corridor Partnership Initiative.''

AMENDMENT NO. 4071

On page 61, line 25, add the following before the period: '': *Provided further,* That $2,300,000 of the funding provided herein shall be for the Albuquerque Metropolitan Area Water Reclamation and Reuse project authorized by Title XVI of Public Law 102–575 to undertake phase II of the project''.

AMENDMENT NO. 4072

(Purpose: To provide $1,000,000 for the Kotzebue wind project)

On page 67, line 4, after the word ''Fund:'' insert the following: ''*Provided,* That, $1,000,000 shall be made available for the Kotzebue wind project.''

AMENDMENT NO. 4073

(Purpose: To provide $2,000,000 for the design and construction of a demonstration facility for regional biomass ethanol manufacturing in Southeast Alaska)

On page 67, line 4 after the word ''Fund:'' insert the following: ''*Provided,* That, $2,000,000 shall be made available for the design and construction of a demonstration facility for regional biomass ethanol manufacturing in Southeast Alaska.''

AMENDMENT NO. 4074

(Purpose: To provide $500,000 for the bioreactor landfill project to be administered by the Environmental Education and Research Foundation and Michigan State University)

On page 67, line 4, after the word ''Fund:'' insert the following: ''*Provided,* That, $500,000 shall be made available for the bioreactor landfill project to be administered by the Environmental Education and Research Foundation and Michigan State University.''

AMENDMENT NO. 4076

(Purpose: To exempt travel within the LDRD program from the Department-wide travel cap)

On page 83, before line 20, insert the following new subsection:

''(c) The limitation in subsection (a) shall not apply to reimbursement of management and operating contractor travel expenses within the Laboratory Directed Research and Development program.''

AMENDMENT NO. 4077

(Purpose: To provide erosion and sediment control measures resulting from increased flows related to the Cerro Grande Fire in New Mexico)

On page 93, line 18, strike ''enactment'' and insert: ''enactment, of which $2,000,000 shall be made available to the U.S. Army Corps of Engineers to undertake immediate measures to provide erosion control and sediment protection to sewage lines, trails, and bridges in Pueblo and Los Alamos Canyons downstream of Diamond Drive in New Mexico''.

AMENDMENT NO. 4078

(Purpose: To provide that up to 8 percent of the funds provided to government-owned, contractor-operated laboratories shall be available to be used for Laboratory Directed Research and Development)

On page 82, line 24, strike ''6'' and replace with ''8''.

AMENDMENT NO. 4083

(Purpose: To prohibit the use of funds made available by this Act to carry out any activity relating to closure or removal of the St. Georges Bridge across the Chesapeake and Delaware Canal, Delaware)

On page 58, between lines 13 and 14, insert the following:

''SEC. ___. ST. GEORGES BRIDGE, DELAWARE.

''None of the funds made available by this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Chesapeake and Delaware Canal, Delaware, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.''

AMENDMENT NO. 4085

(Purpose: To provide for an additonal payment from the surplus to reduce the public debt)

On page _____, after line _____, insert the following:

''DEPARTMENT OF THE TREASURY

''BUREAU OF THE PUBLIC DEBT

''SUPPLEMENTAL APPROPRIATION FOR FISCAL YEAR 2001

GIFTS TO THE UNITED STATES FOR REDUCTION OF THE PUBLIC DEBT

''For deposit of an additonal amount for fiscal year 2001 into the account established

under section 3113(d) of title 31, United States Code, to reduce the public debt, $5,000,000,000.''

AMENDMENT NO. 4088

(Purpose: To provide sums to the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982)

On page 66, between lines 11 and 12 insert: ''SEC. ____. The Secretary of the Interior is authorized and directed to use not to exceed $1,000,000 of the funds appropriated under title II to refund amounts received by the United States as payments for charges assessed by the Secretary prior to January 1, 1994 for failure to file certain certification or reporting forms prior to the receipt of irrigation water, pursuant to sections 206 and 224(c) of the Reclamation Reform Act of 1982 (96 Stat. 1226, 1272; 43 U.S.C. 390ff, 390ww(c)), including the amount of associated interest assessed by the Secretary and paid to the United States pursuant to section 224(i) of the Reclamation Reform Act of 1982 (101 Stat. 1330–268; 43 U.S.C. 390ww(i)).''

AMENDMENT NO. 4093

(Purpose: To set aside funds for maintenance and repair of the Sakonnet Harbor breakwater in Little Compton, Rhode Island)

On page 53, line 8, strike ''facilities:'' and insert the following: ''facilities, and of which $500,000 shall be available for maintenance and repair of the Sakonnet Harbor breakwater in Little Compton, Rhode Island:''.

AMENDMENT NO. 4100

(Purpose: To direct the Federal Energy Regulatory Commission to submit to Congress a report on electricity prices in the State of California)

On page 97, between lines 12 and 13, insert the following:

SEC. 7___. REPORT TO CONGRESS ON ELECTRICITY PRICES.

(a) FINDINGS.—Congress finds that—

(1) California is currently experiencing an energy crisis;

(2) rolling power outages are a serious possibility;

(3) wholesale electricity prices have soared, resulting in electrical bills that have increased as much as 300 percent in the San Diego area;

(4) small business owners and people on small or fixed incomes, especially senior citizens, are particularly suffering;

(5) the crisis is so severe that the County of San Diego recently declared a financial state of emergency; and

(6) the staff of the Federal Energy Regulatory Commission (referred to in this section as the ''Commission'') is currently investigating the crisis and is compiling a report to be presented to the Commission not later than November 1, 2000.

(b) REPORT.—

(1) IN GENERAL.—The Commission shall—

(A) continue the investigation into the cause of the summer price spike described in subsection (a); and

(B) not later than December 1, 2000, submit to Congress a report on the results of the investigation.

(2) CONTENTS.—The report shall include—

(A) data obtained from a hearing held by the Commission in San Diego;

(B) identification of the causes of the San Diego price increases;

(C) a determination whether California wholesale electricity markets are competitive;

(D) a recommendation whether a regional price cap should be set in the Western States;

(E) a determination whether manipulation of prices has occurred at the wholesale level; and

(F) a determination of the remedies, including legislation or regulations, that are necessary to correct the problem and prevent similar incidents in California or anywhere else in the United States.

AMENDMENT NO. 4102

(Purpose: To provide a greater level of recreation management activities on reclamation project land and water areas within the State of Montana east of the Continental Divide)

On page 66, between lines 11 and 12, insert the following:

SEC. 2___. RECREATION DEVELOPMENT, BUREAU OF RECLAMATION, MONTANA PROJECTS.

(a) IN GENERAL.—To provide a greater level of recreation management activities on reclamation project land and water areas within the State of Montana east of the Continental Divide (including the portion of the Yellowtail Unit of the Pick-Sloan Project located in Wyoming) necessary to meet the changing needs and expectations of the public, the Secretary of the Interior may—

(1) investigate, plan, construct, operate, and maintain public recreational facilities on land withdrawn or acquired for the projects;

(2) conserve the scenery, the natural, historic, paleontologic, and archaeologic objects, and the wildlife on the land;

(3) provide for public use and enjoyment of the land and of the water areas created by a project by such means as are consistent with but subordinate to the purposes of the project; and

(4) investigate, plan, construct, operate, and maintain facilities for the conservation of fish and wildlife resources.

(b) COSTS.—The costs (including operation and maintenance costs) of carrying out subsection (a) shall be nonreimbursable and nonreturnable under Federal reclamation law.

AMENDMENT NO. 4103

(Purpose: To modify the law relating to Canyon Ferry Reservior, Montana)

On page 66, between lines 11 and 12, insert the following:

SEC. 2___. CANYON FERRY RESERVOIR, MONTANA.

(a) APPRAISALS.—Section 1004(c)(2)(B) of title X of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–713; 113 Stat. 1501A–307) is amended—

(1) in clause (i), by striking ''be based on'' and inserting ''use'';

(2) in clause (vi), by striking ''Notwithstanding any other provision of law,'' and inserting ''To the extent consistent with the Uniform Appraisal Standards for Federal Land Acquisition,''; and

(3) by adding at the end the following:

''(vii) APPLICABILITY.—This subparagraph shall apply to the extent that its application is practicable and consistent with the Uniform Appraisal Standards for Federal Land Acquisition.''.

(b) TIMING.—Section 1004(f)(2) of title X of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–714; 113 Stat. 1501A–308) is amended by inserting after ''Act,'' the following: ''in accordance with all applicable law,''.

(c) INTEREST.—Section 1008(b) of title X of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681–717; 113 Stat. 1501A–310) is amended by striking paragraph (4).

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 4024, 4032, 4033, 4039, 4040, 4042, 4046, 4047, 4057, 4062, 4063, 4067, 4068, 4069, 4070, 4071, 4072, 4073, 4074, 4076, 4077, 4078, 4083, 4085, 4088, 4093, 4100, 4102, and 4103) were agreed to.

FLOOD DAMAGE REDUCTION IN THE SOUTHWEST VALLEY OF ALBUQUERQUE, NEW MEXICO

Mr. BINGAMAN. Mr. President, I rise today to speak for a few minutes about my amendment to the Energy and Water Appropriations Bill now before the Senate. My amendment is needed to allow the Army Corps of Engineers to continue to work on a feasibility study to alleviate the chronic flooding in the Southwest Valley of Albuquerque, New Mexico.

First, I want to thank the chairman, Senator DOMENICI, the distinguished ranking member, Senator REID, and their fine staffs for all their good work on this Energy and Water Appropriations bill. This bill provides vital funding for a number of programs that are important to my state of New Mexico and to the nation, and I thank them for their efforts.

For a number of years the Southwest Valley area of Albuquerque in my state of New Mexico has been prone to flooding after major rainstorms. The flooding has caused damage to irrigation and drainage structures, erosion of roadways, pavement, telephone and electrical transmission conduits, contaminated water and soil due to overflowing septic tanks, damaged homes, businesses, and farms, and presented hazards to automobile traffic. In 1997, Bernalillo County approached the Army Corps Engineers to request a reconnaissance study of the chronic flooding problems

The study area encompassed 17.8 square miles of mostly residential neighborhoods along the banks of the Rio Grande in the Southwest Valley and the 50 square miles on the West Mesa, including the Isleta Pueblo, that drain into the valley. The reconnaissance study began in March 1998 and is now completed.

The conclusions of the reconnaissance study define the magnitude of the continuing flooding problem in the Southwest Valley. The study also established a clear federal interest in the drainage project, found a positive cost to benefit ratio for the project, and identified work items necessary to begin designing a range of solutions to alleviate the chronic flooding problems in the valley.

In 1999, based on the positive findings of the reconnaissance study, the Environment and Public Works Committee authorized the Army Corps of Engineers to conduct a full study to determine the feasibility of a project for flood damage reduction in Albuquerque's Southwest Valley. The authorization is contained in section 433 of the Water Resources Development Act of 1999—P.L. 106–53. I want to thank the EPW committee for authorizing this

much needed feasibility study. The study began in March 1999 and is expected to be completed in February 2002.

Currently, Bernalillo County, the Albuquerque Metropolitan Arroyo Flood Control Authority and the Corps are working cooperatively on the feasibility study. Last year, the administration requested, and the Congress appropriated $250,000 in federal funding for the feasibility study. This year, the request was for $330,000. I want to thank the committee for again providing the full amount requested.

Last July I had an opportunity to meet with the engineers from the Corps, the County, and AMAFCA to get an update on the study and to tour the areas in the Southwest Valley that are subject to chronic flooding. At the end of the tour, the Corps indicated to me that based on the initial results of the feasibility study, the flooding there was quite severe but the project did not seem to meet the Corps' required flow criterion of 1800 cubic feet per second for the 100-year flood. These flow criteria are outlined in the Engineering Regulations established for Corps. Because of the obvious severity of the flooding, the engineers requested a legislative waiver of the regulations. Without a waiver, the Corps could not continue as a partner in the project. They also indicated the Corps' regulations do not contain any provision to waive the peak discharge criterion.

I would like to take a few moments to describe briefly the unique situation in the Southwest Valley that necessitates a waiver of the Corps' standard regulations. The land along the west side of the Rio Grande is essentially flat. The river is contained by large earthen levees, which were built for flood control. When a river is contained this way by levees, the sediment accumulates in the river bed, slowly raising the level of the river. Of course, if there were no levees, when sediment builds up, the river would simply change course to a lower level. However, over the years, as the sediment has continued to accumulate in the Rio Grande, the level of the river within the levees is now higher than the surrounding land. Thus, when there are heavy rains during the monsoon season, the runoff has nowhere to go—it simply flows into large pools on the valley floor, flooding homes and farms. The water can't flow uphill into the river, so it stays there until it either evaporates or is pumped up and hauled away.

If the flood water sits in large pools and isn't flowing, it clearly can't meet any criterion based on the flow rate of water. Indeed, given the unique nature of the flooding in the Southwest Valley, most areas subject to chronic flood damage do not meet the Corps' peak discharge criterion.

During my visit in July, the three partners in the feasibility study specifically asked me for help in obtaining a waiver of the Corps' technical requirements to deal with this special situation. My amendment provides the necessary waiver the Corps needs to continue to work in partnership with the county and AMAFCA on this project. This is not a new authorization; Congress authorized this study last year. My amendment is a simple technical fix to the existing authorization. Similar language is already in the House companion to this Energy and Water appropriations bill. I do believe the unique situation in Bernalillo County warrants a waiver of the Corps' standard regulations, and I hope the Senate will adopt my amendment.

Mr. REID. Mr. President, on the amendments en bloc, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I yield to Senator GRASSLEY from Iowa for 2 minutes with reference to explaining an amendment in which he procured a number of cosponsors, which was just accepted. He would like to talk about it.

Heretofore, Senator KYL was referring to the Senator from Iowa, and there were two Senators from Iowa on the floor. I believe it should be reflected that he was speaking of Senator HARKIN from Iowa, not Senator GRASSLEY.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Iowa is recognized for 2 minutes.

Mr. GRASSLEY. In the first place, I ask unanimous consent, to the amendment I have had filed at the desk that was just accepted, that the additional cosponsors be added of Senators DEWINE, LUGAR, and KERREY. I thank Senator DOMENICI and Senator REID for accepting the amendment.

Mr. President, I would like to take this opportunity to introduce a critically important amendment to the Energy and Water Appropriations bill, and I would like to thank Senators GRAMS, VOINOVICH, DEWINE, LUGAR, KERREY of Nebraska, and SNOWE for joining me in this effort.

This amendment would require the administration to provide Congress their plan to address the increasing costs in home heating fuels by September 30. Quite frankly, this plan is long overdue.

Mr. President, on July 3 of this year, I wrote President Clinton and Energy Secretary Richardson to bring their attention to the ever-increasing price of natural gas. I also shared my concern regarding the inadequacy of natural gas supplies to meet demand through the summer and into this winter. I requested that the President inform me of the actions he planned to take to address the higher-than-normal heating bills my constituents will surely face this winter.

Jack Lew, Director of the Office of Management and Budget responded to my letter on July 31. Regrettably, Mr. Lew thanked me for expressing my concerns regarding the increase in fuel costs this past winter.

Let me repeat that. In response to my letter about the inadequacy of home heating fuel for the upcoming winter to the President, I received a letter thanking me for my concerns about the increase in fuel costs last winter. Mr. President, it is this type of irresponsible behavior that has led this country into the next energy crisis.

Today, natural gas is at a record high near $5.00 per million BTU's, while supplies hover below the five-year average. This 50 percent increase will certainly impact the more than 80 percent of Iowa households which use natural gas to heat their homes.

Furthermore, home heating oil is near a 10-year high, at 98 cents per gallon, already 41 percent above the average price last fall and winter. And crude oil remains near a 10-year high.

While testifying before the Senate Agriculture Committee on July 20, Secretary Richardson stated that the administration had developed a plan and was in the process of finalizing a plan to address potential home heating oil and natural gas shortages. Mr. Secretary, I have not seen your plan. I want to see the plan.

I won't allow the Department of Energy to sit idly by as home heating fuels double. For this reason, I am offering this amendment to require the Department of Energy to provide a report to Congress by September 30, 2000, detailing their plan to address the high cost of home heating oil and natural gas.

I believe this amendment will force the administration to take a much more active role in remedying the home heating fuel crisis.

AMENDMENTS NOS. 4034, 4035, 4036, 4037, 4043, 4051, 4055, 4056, 4058, 4061, 4064, 4079, 4080, 4082, 4092, 4096, AND 4112, EN BLOC, AS MODIFIED

Mr. DOMENICI. On behalf of myself and Senator REID, I have a series of amendments, again, offered by number, which are filed, which anybody can read, which have been carefully reviewed and can be agreed to with certain modifications. In each instance, the modification is before the Senator from New Mexico and has been reviewed by the Senator from Nevada and with the proponents of the amendment and the authorizing committee that might be interested. I send to the desk this list of modified amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments, en bloc, as modified.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments Nos. 4034, 4035, 4036, 4037, 4043, 4051, 4055, 4056, 4058, 4061, 4064, 4079, 4080, 4082, 4092, 4096, and 4112, en bloc, as modified.

The amendments, as modified, are as follows:

AMENDMENT NO. 4034, AS MODIFIED

(Purpose: To state the sense of the Senate regarding limitations on the capacity of the Department of Energy to augment funds for worker and community assistance grants in response to the closure or downsizing of Department of Energy facilities)

On page 90, between lines 6 and 7, insert the following:

SEC. 320. (a) FINDINGS.—The Senate makes the following findings:

(1) The closure or downsizing of a Department of Energy facility can have serious economic impacts on communities that have been built around and in support of the facility.

(2) To mitigate the devastating impacts of the closure of Department of Energy facilities on surrounding communities, section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h) provides a mechanism for the provision of financial assistance to such communities for redevelopment and to assist employees of such facilities in transferring to other employment.

(4) Limitations on the capacity of the Department of Energy to seek reprogramming of funds for worker and community assistance programs in response to the closure or downsizing of Department facilities undermines the capability of the Department to respond appropriately to unforeseen contingencies.

(b) SENSE OF SENATE.—It is the sense of the Senate that, in agreeing to the conference report to accompany the bill H.R.4733 of the 106th Congress, the conferees on the part of the Senate should not recede to provisions or language proposed by the House of Representatives that would limit the capacity of the Department of Energy to augment funds available for worker and community assistance grants under section 3161 of the National Defense Authorization for Fiscal Year 1993 or under the provisions of the USEC Privatization Act (subchapter A of chapter 1 of title III of Public Law 104–134; 42 U.S.C. 2297h et seq.).

AMENDMENT NO. 4035, AS MODIFIED

(Purpose: To set aside funds to carry out activities under the John Glenn Great Lakes Basin Program)

On page 47, strike line 18 and insert the following: ''$139,219,000, to remain available until expended, of which $100,000 shall be made available to carry out activities under the John Glenn Great Lakes Basin Program established under section 455 of the Water Resources Development Act of 1999 (42 U.S.C. 1962d–21).''

AMENDMENT NO. 4036, AS MODIFIED

(Purpose: To appropriate $10,400,000 in Title I, Corps of Engineers—Operation and Maintenance for Pascagoula Harbor, Mississippi, to continue critical improvement projects)

At the appropriate place in the bill, insert the following:

SEC. . Of the funds appropriated in Title I, Operations and Maintenance, General, $10,400,000 is available for the operation and maintenance of the Pascagoula Harbor, Mississippi.

AMENDMENT NO. 4037, AS MODIFIED

(Purpose: To appropriate $200,000 in Title I, Corps of Engineers, Construction, General for Gulfport Harbor, Mississippi channel width dredging)

At the appropriate place in the bill, insert the following:

SEC. . Of the funds appropriated in Title I, Construction General, $200,000 is available for the Gulfport Harbor, Mississippi project for the Corps of Engineers to prepare a project study plan and to initiate a general reevaluation report for the remaining authorized channel width dredging.

AMENDMENT NO. 4043, AS MODIFIED

(Purpose: To set aside funds for implementation of certain environmental restoration requirements)

On page 53, line 14, before the period, insert the following: '': *Provided further*, That $1,700,000 shall be used to implement environmental restoration requirements as specified under the certification issued by the State of Florida under section 401 of the Federal Water Pollution Control Act (33 U.S.C. 1341), dated October 1999 (permit number 0129424–001–DF), including $1,200,000 for increased environmental dredging and $500,000 for related environmental studies required by the water quality certification.

AMENDMENT NO. 4051, AS MODIFIED

(Purpose: To set aside funds to develop the Detroit River Masterplan)

On page 47, strike line 18 and insert the following: $139,219,000, to remain available until expended, of which $100,000 may be made available to develop the Detroit River Masterplan under section 568 of the Water Resources Development Act of 1999 (113 Stat. 368).

AMENDMENT NO. 4055, AS MODIFIED

(Purpose: To include additional studies and analyses in the Reconnaissance Report for the Kihei Area Erosion, HI study)

Insert the following after line 13, page 58.

SEC. . Studies for Kihei Area Erosion, HI, shall include an analysis of the extent and causes of the shoreline erosion. Further, studies shall include an analysis of the total recreation and any other economic benefits accruing to the public to be derived from restoration of the shoreline. The results of this analysis shall be displayed in study documents along with the traditional benefit-cost analysis.

AMENDMENT NO. 4056, AS MODIFIED

(Purpose: To include additional studies and analyses in the Reconnaissance Report for the Waikiki Area Erosion Control, HI study)

Insert the following after line 13, page 58.

SEC. . Studies for Waikiki Erosion Control, HI, shall include an analysis of the environmental resources that have been, or may be, threatened by erosion of the shoreline. Further, studies shall include an analysis of the total recreation and any other economic benefits accruing to the public to be derived from restoration of the shoreline. The results of this analysis shall be displayed in study documents along with the traditional benefit-cost analysis.

AMENDMENT NO. 4058, AS MODIFIED

(Purpose: Newlands Water Rights Fund)

On page 66, between lines 11 and 12, insert:

SEC. . Beginning in fiscal year 2000 and thereafter, any amounts provided for the Newlands Water Rights Fund for purchasing and retiring water rights in the Newlands Reclamation Project shall be non-reimbursable.

AMENDMENT NO. 4061, AS MODIFIED

(Purpose: To provide $5,000,000 for small wind projects, including not less than $2 million for the small wind turbine development project)

On page 67, line 4, after the word ''Fund:'' insert the following ''*Provided*, That of the amount available for wind energy systems, not less than $5,000,000 shall be made available for small wind, including not less than $2,000,000 for the small wind turbine development project:''

AMENDMENT NO. 4064, AS MODIFIED

(Purpose: To provide $2,000,000 for a linear accelerator at the University Medical Center of Southern Nevada)

On line 15, page 68, after the word ''expended:'' Insert the following: ''*Provided*, That $3,000,000 shall be made available for high temperature super conductor research at Boston College:''

AMENDMENT NO. 4079, AS MODIFIED

(Purpose: To make a technical correction in language relating to the Waste Isolation Pilot Plant)

On page 73, line 22, strike everything beginning with the word ''*Provided*'' through page 74, line 3.

AMENDMENT NO. 4080, AS MODIFIED

(Purpose: To make funds available for a study by the Secretary of the Army to determine the feasibility of providing additional crossing capacity across the Chesaspeake and Delaware Canal)

On page 53, line 8, before the colon, insert the following: ''; and of which $50,000 shall be used to carry out the feasibility study described in section 1___''.

On page 58, between lines 13 and 14, insert the following:

SEC. 1___. DELAWARE RIVER TO CHESAPEAKE BAY, DELAWARE AND MARYLAND.

(a) IN GENERAL.—The Secretary of the Army, in cooperation with the Department of Transportation of the State of Delaware, shall conduct a study to determine the need for providing additional crossing capacity across the Chesapeake and Delaware Canal.

(b) REQUIRED ELEMENTS.—In carrying out subsection (a), the Secretary shall—

(1) analyze the need for providing additional crossing capacity;

(2) analyze the timing, and establish a timeframe, for satisfying any need for additional crossing capacity determined under paragraph (1);

(3) analyze the feasibility, taking into account the rate of development around the canal, of developing 1 or more crossing corridors to satisfy, within the timeframe established under paragraph (2), the need for additional crossing capacity with minimal environmental impact;

AMENDMENT NO. 4082, AS MODIFIED

(Purpose: To express the sense of the Senate concerning the dredging of the main channel of the Delaware River)

On page 58, between lines 13 and 14, insert the following:

SEC. 1___. SENSE OF THE SENATE CONCERNING THE DREDGING OF THE MAIN CHANNEL OF THE DELAWARE RIVER.

It is the sense of the Senate that—

(1) the Corps of Engineers should continue to negotiate in good faith with the State of Delaware to address outstanding environmental permitting concerns relating to the project for navigation, Delaware River Mainstem and Channel Deepening, Delaware, New Jersey, and Pennsylvania, authorized by section 101(6) of the Water Resources Development Act of 1992 (106 Stat. 4802) and modified by section 308 of the Water Resources Development Act of 1999 (113 Stat. 300); and

(2) the Corps of Engineers and the State of Delaware should resolve their differences through the normal State water quality permitting process.

AMENDMENT NO. 4092, AS MODIFIED

(Purpose: To set aside funds for activities related to the selection of a permanent disposal site for environmentally sound dredged material from navigational dredging projects in the State of Rhode Island)

On page 47, line 18, before the period, insert the following: '', of which not less than $1,000,000 shall be available for the conduct of activities related to the selection, by the Secretary of the Army in cooperation with the Environmental Protection Agency, of a permanent disposal site for environmentally sound dredged material from navigational dredging projects in the State of Rhode Island''.

AMENDMENT NO. 4096, AS MODIFIED

On page 52, line 10, strike ''$324,450,000'' and insert ''$334,450,000''.

On page 52, line 15, before the period insert '': *Provided further*, That of the amounts made available under this heading for construction, there shall be provided $375,000 for Tributaries in the Yazoo Basin of Mississippi, and $45,000,000 for the Mississippi River levees: *Provided further*, That of the amounts made available under this heading for operation and maintenance, there shall be provided $6,747,000 for Arkabutla Lake, $4,376,000 for Enid Lake, $5,280,000 for Grenada Lake, and $7,680,000 for Sardis Lake''.

AMENDMENT NO. 4112, AS MODIFIED

(Purpose: To set aside funds for a feasibility study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River, South Dakota)

On page 47, line 18, before the period, insert the following: '', of which $100,000 shall be made available to carry out a reconnaissance study provided for by section 447 of the Water Resources Development Act of 1999 (113 Stat. 329)''.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc, as modified.

The amendments (Nos. 4034, 4035, 4036, 4037, 4043, 4051, 4055, 4056, 4058, 4061, 4064, 4079, 4080, 4082, 4092, 4096, and 4112), as modified, were agreed to.

Mr. REID. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I have additional cosponsors who were not included in the first en bloc acceptance. They are: Senator KYL on 4076, Senator KYL on 4078, Senator BINGAMAN on 4070, Senator REID on 4085, Senator DOMENICI on 4024, and Senator BINGAMAN on 4071. I ask unanimous consent that these Senators be shown as cosponsors appropriately on those amendments to which I have referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I had an opportunity to speak to my friend from New Mexico that Senator TORRICELLI has called and ask for 5 minutes to speak before the vote at 8 o'clock. I ask that in the form of a unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. We accommodate that.

Mr. President, we have additional amendments we are working on with various staff on both sides of the aisle that are not ready, that are still being worked on. We will continue with the hope we will have them finished before the time comes for final passage of this bill.

I yield the floor.

AMENDMENT NO. 4105

(Purpose: To prohibit the use of funds to make final revisions to the Missouri River Master Manual)

Mr. REID. Mr. President, I call up amendment No. 4105 that I offered last evening, that Senator DURBIN is now going to debate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. Reid], for Mr. DURBIN, proposes an amendment numbered 4105.

Mr. DURBIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, strike lines 6 through 13 and insert the following:

SEC. 103. MISSOURI RIVER MASTER MANUAL.

None of the funds made available by this Act may be used to make final revisions to the Missouri River Master Water Control Manual.

Mr. DURBIN. If I understand correctly, we have 20 minutes equally divided on this amendment. I will try to be brief.

I had a conversation with Senator BOND. We are perilously close to being in an agreement. I don't know if we will reach that point; perhaps we will. Let me suggest to him and to those who are following the course of this debate, I think the debate last night between Senator DASCHLE and Senator BOND was a good one because it laid out, I think, very clearly, both sides of this issue.

I come to this debate trying to find some common ground, if there is, and I don't know how much common ground one can find on a river. In this situation, we are dealing with the question of the future of the Missouri River. It is not a parochial interest; it is an interest which affects the Mississippi River and many who have States bordering the Mississippi River, and agricultural and commercial interests that are involved in the future of that river.

I listened to the debate yesterday and tried to follow it. I came to the conclusion that the Senator from Missouri was arguing that he, with his section 103, did not want to see the so-called spring rise occur next year, in the year 2001, and that was the purpose of his amendment.

It is my understanding that if we did nothing, the spring rise would not occur anyway because there is no intention to change the manual for the river that would result in that as of next year.

The purpose of my amendment is to say that there would be no final revisions to the manual that would take place in the upcoming fiscal year, October 1, 2000, to October 1, 2001, but we would allow all of the agencies that are currently studying the future of the river and amending the 1960 manual the opportunity to consider all of the options, to have public comment, to invite in the experts.

I went through the debate, read through the CONGRESSIONAL RECORD. My colleague from Missouri, yesterday, I think, said something along these lines because he said:

Contrary to what you just heard, [referring to Senator DASCHLE's debate] any other aspect of the process to review and amend the operation of the Missouri River, to change the Missouri River manual, to consider opinions, to discuss, to debate, to continue the vitally important research that is going on now in the river and how it can improve its habitat will continue.

The purpose of my amendment is to say let us protect that. Let us protect that study and that option. No final revision can be made to the manual that would effect the change that I think is a concern of the Senator from Missouri and others during the course of the next fiscal year. So we are preserving the right and opportunity to study the future of the river, but we are saying you cannot make a change in the manual that will change the policies on the river during that period of time.

I think that will give us an opportunity for better information and a full opportunity for public comment. We will learn more in the process from the experts and the experts include not only the environmentalists, who are very important to this discussion, but also many, many others, including those in the agricultural community and in the navigation community. All of them should have an opportunity to be part of this debate about what the manual change will be. That is what I am trying to preserve with this amendment, to try to find, if you will, a middle ground between 103 and where Senator DASCHLE was yesterday.

Let me also say that under my amendment the spring rise or low summer flows proposal would not be implemented next year. We have discussed this with the Fish and Wildlife, as well as the Corps of Engineers. It is our understanding that if you prohibit a final revision in the manual that you are not going to be able to change the manual as of next year, and there is no proposal on the table that would suggest anything is going to occur before the year 2003.

I will concede to my friend from Missouri the letter from the Fish and Wildlife Service, and one particular sentence or two in it, leaves some question. But our followup contact with the Corps of Engineers suggests they are not going to authorize a spring flow next year.

I don't know if what I am suggesting by way of an amendment will win the support of the administration. I don't know the answer to that. What I am offering is a good faith attempt to continue the study, continue the survey,

and not make any changes in the policy as of the next fiscal year; but to then be prepared to look at the results, consider the public comments, and try to come up with a policy that is sound.

The Senator from Missouri and the Senator from Illinois both represent agricultural interests. We are constantly being asked to try to balance this, the commercial needs and environmental needs. Certainly the same thing applies to this debate on the history. We are trying to balance the commercial needs for navigation and the needs for environment. I think we can do it.

I think if we are open and honest and have the public comment, which the Senator from Missouri has invited, that it will occur. I will listen carefully. As the Senator from Missouri said last night during the course of the debate: Let the debates go on. We would like to see sound science. We would like to see the best information available. Fish and Wildlife has not shown it to us. I concede during the next year allowing that information to come forward.

Given the U.S. Fish and Wildlife Service currently supports the spring rise and low summer flows profile, taking it off the table for discussion is a recipe for stalemate. Let us at least have the discussion about the spring flow. I think section 103 precludes even that discussion. Let us not change the policy as to the spring flow in the next year, but let us debate it. Let's try to find what the best outcome would be for the future of the river and those who depend on it.

Proposed revisions to the manual would continue to be developed under my amendment. Studies would continue. Talks about alternatives to river management among all the river's stakeholders could continue.

In addition, we want to get the best science we can from the National Academy of Sciences, which is in the process of completing an important study on the future of the Missouri. We should not make any decisions about the future of the river until that study is released, and I think my amendment protects that possibility and gives you the opportunity during this next year to listen to the National Academy of Sciences and to try to resolve that as well as to invite public input.

The Corps is working on a lot of alternatives to managing the Missouri River. I think it is fair for us to keep these proposals, developed by farm and navigation interests and proposals developed by recreation and environmental interests, all on the table and all open to debate.

This is important to my colleague from Missouri. It is really important in Illinois as well. The Missouri River feeds into the Mississippi, and we have some 550 miles of Illinois border on that river. A lot of people depend on it. I want to make certain we do the right thing for our farmers but also for this important piece of America's natural heritage, the Missouri River and Mississippi River.

I am not here to argue about the management of the Missouri River. I am not competent to do it. But I think we have to bring the information together and make the most sound judgment we can about the future of the river, and it is that particular approach I have offered in this amendment. I hope the Senator from Missouri will consider it as a friendly amendment, a positive and constructive alternative in the debate between him and the Senator from South Dakota. I yield the remainder of my time.

The PRESIDING OFFICER. The distinguished Senator from Missouri is recognized.

Mr. BOND. Mr. President, I appreciate the fact the distinguished Senator from Illinois has said he did not want to see a spring rise in 2001. That basically was what my amendment did.

When I looked at his amendment, I was very much concerned that it only deals with a final revision of the master manual. What we have requested—and as he has already pointed out, it has been proposed by the Fish and Wildlife Service in a letter that I believe has already been submitted for the RECORD. If not, I will submit it again for the RECORD.

I ask unanimous consent it be printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Denver, Co, July 12, 2000.

Brig. Gen. CARL A. STROCK,
Commander, Northwest Division, U.S. Army Corps of Engineers, Portland, OR.

DEAR GENERAL STROCK: This letter is a result of our July 10, 2000, meeting in Washington, D.C. regarding the Missouri River Biological Opinion attended by Assistant Secretary Westphal and Director Clark. The following is a summary of the discussions related to the framework of conservation measures needed to avoid jeopardizing the continued existence of listed species on the Missouri River.

The Service will recommend in our draft biological opinion a spring pulse starting point of 49.5 kcfs (+17.5 above full navigation service) during the first available water year and an annual summer low of 21 kcfs from Gavin's Point Dam. As an interim step, a spring pulse of 49.5 kcfs from Gavins Point during the first available water year and a summer low of 25 kcfs would be in effect each year, starting in 2001, until the new Master Manual is in place or other appropriate NEPA documentation. We would view this as an adaptive management step that, in conjunction with robust monitoring of the biological response, could help us refine a final set of recommendations for implementation. A robust monitoring program will be necessary to identify the desired beneficial biological responses to listed species from these interim measures and to provide a basis for any adjustments that may be necessary. Corps representatives stated during the July 10th meeting that the Corps has significant discretion regarding navigation and that there is flexibility in the 8 month navigation season. They also stated that the length of the navigation season and the flows provided during the navigation season was an ''expectation'' rather than a guarantee.

The Corps will provide a spring pulse from Fort Peck Dam as discussed in our recent Portland meetings approximately one year out of three beginning in 2002. As a test of the spillway infrastructure, the Corps will perform a ''mini-test'' in 2001. The parameters of the test will be described by the Corps in your response to this letter and will incorporate the direction agreed to from recent discussions held in Portland.

The Service will identify acres of habitat (sandbar and shallow/slow water) necessary to avoid jeopardy in the biological opinion. We believe the Corps can use existing programs and the likely expanded mitigation program to result in the creation of at least one-third of these acres necessary in the lower river system. The rest will need to be restored through additional physical modification of existing river training structures and through hydrological modification. The Service believes that a majority of the habitat can be created through hydrological modification.

The monitoring needs relative to piping plovers and least terns are currently being adequately addressed by the existing Corps program. The short-term monitoring needs relative to the Fort Peck test for pallid sturgeon have been outlined in a letter sent to the Corps on April 7, 2000. The Corps is currently assisting the Service relative to these short-term needs below Fort Peck. There is a need for a comprehensive short-term monitoring of the response of pallids to the interim flows recommended from Gavins Point. The long-term needs for pallid sturgeon monitoring throughout the system will be addressed in the draft biological opinion.

The Service has outlined the short-term propagation needs (which could efficiently be fulfilled at Garrison Dam and Gavins Point National Fish Hatcheries) necessary to reach stocking objectives in a letter dated April 25, 2000. While the Corps has indicated that they may not have authority to assist in meeting these needs at Service facilities, the Service believes that the Endangered Species Act would provide the basis for such authority. The Service has also sent a letter dated June 27, 2000, to the Corps outlining our concern that a new facility at Fort Peck Dam would not meet these short term needs.

There is agreement in principle regarding using the adaptive management approach in implementing the actions and goals identified in the opinion. There is also agreement regarding the unbalanced intra-system regulation issues. The final discussion of these two topics will be outlined in the draft biological opinion which is expected to be delivered to the Corps on or bout July 31, 2000.

The Service needs to know by July 19, 2000, if you accept the six elements discussed in this letter as being reasonable and prudent. We also need to know if you want to revise the project description to incorporate these elements or if you prefer to have them presented in the form of a RPA in a draft biological opinion.

Sincerely,

———— ————.
Regional Director.

Mr. BOND. Their July 10 letter said to the Corps—I used the term ''diktat'' as an authoritarian governmental directive. They tell the Corps of Engineers in the letter of July 12:

As an interim step, a spring pulse of 49.5 kcfs from Gavins Point during the first available water year and a summer low of 25 kcfs would be in effect each year, starting in 2001, until the new Master Manual is in place or other appropriate NEPA documentation.

Basically what Fish and Wildlife is saying is: Forget about the process.

You, Corps of Engineers, start a spring rise in 2001.

That is what we are here about. We pointed out all the problems that the spring rise would provide, the fact that there are very good, scientific judgments coming out of the Missouri Department of Conservation, the Missouri Department of Natural Resources, and others, saying that a spring rise would have a harmful effect, not only on people along the river, on river transportation, but on endangered species. We have asked the Missouri Department of Natural Resources of the State of Missouri how they view the proposal by the Senator from Illinois. The director of the Department of Natural Resources has just faxed me a letter saying, in pertinent part:

Our conclusion is that the proposed Durbin amendment is not protective of Missouri's interests. Nor is it protective of Mississippi River states' interests. The amendment would allow the spring rise and ''split season'' proposal to proceed to the penultimate point of implementation—too late to be stopped or even amended.

Basically, the view of the attorney general's office and the State department of natural resources in Missouri is that striking section 103 would open up to the dangers that I laid out last night and this morning of the spring rise and the low summer flow.

If the Senator from Illinois agrees that we don't want to have that spring rise and the low summer flows next year, I suggest that we could reach a simple accommodation. Keep section 103. If he wishes to say that studies should go forward on the Missouri River, which is what I firmly believe section 103 does anyhow, we would have no objection to that. But we need to keep that underlying protection that says that you shall not, during 2001, implement the spring rise. That is the purpose of the amendment. That amendment has been in the energy and water bills 4 of the last 5 years, signed by the President.

There is no intent for us to stop the discussions. However, the National Academy of Sciences has a very narrow study on the spring rise itself. The studies that are going forward are studies which should include the proposal of the Missouri Department of Conservation which is a 41,000-cubic-feet-per-second flow of the Missouri River which they think will protect the pallid sturgeon and other endangered species and not subject the people of downstream States—Kansas, Missouri, States along the Mississippi, Illinois, down through Louisiana—from spring flooding and will not end the river transportation on the Mississippi and the Missouri.

If the only question the Senator from Illinois has is whether or not we cut off studies, I will be happy if he asks unanimous consent to change his amendment so it does not repeal section 103 and states that studies of the Missouri River master manual, all of the studies, shall continue but there will be no spring rise in 2001 as provided in section 103; then I think we can reach agreement.

The question has been raised as to whether, even with that modification, that will be acceptable to Members of this body. There are some who appeared to say that would not be acceptable to them.

The question has been raised whether the President might veto the entire appropriations bill over section 103 after having signed it for 4 years in a row. We have already shown there is strong bipartisan support in States affected by the Missouri River manual, that a spring rise would be very hazardous to the human life along the river, as well as to farmers who farm in the productive bottom lands, as well as to the water supply, as well as to river transportation.

I do not think the President will ignore the strong voices of the flood control associations, the bipartisan, strong opposition of the Democratic government of Missouri, the Democratic Governor and mayors of Kansas City and St. Louis who would be subjected to the dangers of flooding from a spring rise.

The President will have to look at the concerns of the people downstream. I think he will realize the scheme is too risky as a result of the action we took today. If the President realizes we are not going to accept the risky scheme of a controlled flood, then maybe we can avoid the need for a vote.

If the distinguished Senator from Illinois wants to leave section 103 and work with us to craft an amendment which says that investigations can continue, which is what I believe section 103 will do, if we can muster even greater support, then we will have much less a danger of having this bill vetoed.

With that in mind, I am happy to work with the Senator from Illinois because his State is at risk of flooding. A spring rise on the Missouri can threaten flooding in Illinois. A low flow on the Missouri River in the summer and in the fall in navigation season not only threatens and ends barge transportation on the Missouri River, but it puts at risk the river transportation on the Mississippi which carries a very significant bulk of the grain going to the export market.

If that is what we are talking about, if we can assure that studies will continue—and I am concerned about the language of his amendment saying we cannot have a final master manual development—that master manual could be implemented so long as it does not include the spring rise—if he is willing to do that, then I say we are on the same page. But I cannot accept and certainly our State governments, the agencies directly involved in the Missouri, cannot accept striking 103.

We went through that battle. We spoke, I thought, with a majority vote, saying there shall be no implementation of a spring rise during the year covered by the bill, which is 2001. If we keep that in place, then I will be happy to work with the distinguished Senator from Illinois to fashion a new section 104 which at least makes clear the agreement we may have reached.

However, if the Senator still feels the need to strike 103, I have to say that is what we voted on; we have been through this. That is the risky scheme of a controlled flood that we cannot accept, and I do not believe, nor do people in the State of Missouri believe, that his amendment standing alone, unmodified, will do that.

I hope, having voted on this and having had the opportunity to tell our colleagues a whole lot more about the Missouri River manual than they ever wanted to know, we might be able to avoid having them vote again. If they vote again, I say to those who supported us, I wish them to continue to support section 103.

If the Senator from Illinois will accept keeping section 103 and work with us to craft a section 104 that further clarifies it, I will be happy to do so. Otherwise, I will just ask all the people who voted with us this morning to vote with us again in opposition to the Durbin amendment.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand where we are, and we will be ready with the remaining amendments very soon. Since there is time remaining, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. Mr. President, we are about to adopt a bill tonight commonly known as the energy and water appropriations bill, but everybody should know that, at a minimum, it is an interesting set of words—''energy and water.'' On the other hand, it is even more than an interesting set of words. There is a great irony with reference to this bill.

First of all, believe it or not, by precedent, this bill contains all of the nuclear weapons research and development, preservation, and manufacturing, and along with it are all the water projects—the Corps of Engineers, the Bureau of Reclamation, and all the waterways—and a whole group of nondefense-related science research projects.

What has happened over the years, it seems to this Senator, is that piling these kinds of programs together and then limiting the amount of money has, over time, yielded more attention

to the water projects because there are hundreds of House Members concerned, and rightly so, and scores of Senators concerned, and here is our great nuclear weapons program. We have stood before the world and thanked our great scientists because they do not belong to the military. These are free-minded Americans, some who have worked for 40 years and are still at Los Alamos as the nucleus of scientists who understand the nuclear weapons.

What I tried to do in the last few years is build a wall in the bill between the defense money and the nondefense money so we can move ahead with some of the things that are so desperately needed for the nuclear activities of this country, especially since we continue to say we have to compete in that area in the world until we have no more nuclear weapons, which we hope will occur sometime.

In spite of this wall, and trying to hold the defense money harmless from domestic spending, what has happened this year in the House allocations just beats anything you could imagine. For the House decided to underfund both, believe it or not. They decided to underfund the President's defense requirements and underfund his nonnuclear, nondefense projects. We cannot expect to get a bill based on those numbers.

I submit the Senate would have a lot of difficulty accepting that bill that would come from those kinds of numbers. Thanks to Senator STEVENS and Senator BYRD, they have allocated $600 million more on the defense nuclear side than the House. And we are still short somewhere between $300 and $400 million for the water projects. So many of you Senators know that your water projects could not be accepted.

We understand there are some new projects that have been new for 5 years, maybe some for 7. It is awful to still call them new, but they have not been started, so we call them new, and we cannot fund them. We are going to try to get some additional resources because every subcommittee is being helped along. If we can, we can do better when we come back.

But I want to just share a couple things that I think everybody should know.

There are two huge problems that exist with reference to our nuclear weapons activities and personnel and physical plant—where they live and work and do the kinds of things that keep us up there, where we can certify to the President of the United States, from these three nuclear labs, that our weapons are safe and will do what they are supposed to do. These lab directors—civilians—certify that based on what they have in their laboratories.

To give you an example of how bad off we are on physical plant, I just want to cite to you a situation that you would find unbelievable at Y–12 over at Oak Ridge National Laboratory.

I say to the Presiding Officer, part of that is nondefense, as you well know. But part of it is defense and related to nuclear weapons. If you went there tomorrow and said: The subcommittee that funds this asked me to come and take a look at one of the big buildings in Y–12 that has some roofing problems, the first thing they would do to you, Mr. President—especially considering the condition of your scalp, where you have no protection from hair—they would put a helmet on you as soon as you walked in this building. Did you know that? A helmet. And you would say: What's that for? And they would say: Well, distinguished Senator, it is because if you walk around this building, the roof falls in on you in pieces. So we don't want to hurt you. Even though you're not doing anything that is harmful down here in your job, the roof falls in on you in pieces.

This is a building, owned by the Department of Energy, which does nuclear deterrent work for the U.S. Government. It is a shame. We are repairing it. We are putting the money in this year. But just as we do that, there are 40- and 50- and 60-year-old buildings that are part of the complex that we still have alive in some of our laboratories, from the very first Manhattan Project, whenever that was. We have not rebuilt them.

So scientists are finding it difficult, in today's America, to continue working at some of our labs. We need a major new program if we are going to maintain this situation of safe and reliable nuclear weapons, with whatever number of warheads. We need a program to start replacing these buildings. Either we are serious about this—we want the very best for our best scientists—or we do not.

The second thing is there is a huge morale problem among the very best scientists, who have been with us a long time and know everything one could know about our nuclear weapons. There is a serious problem that is objectively recorded that says the young brilliant scientists coming out of our schools with Ph.D.s and post-docs are coming to the laboratories in smaller and smaller numbers per year when we go out to try to encourage them to come. In fact, it is tremendously off this year.

The morale problem is so bad that the superscientists are beginning to quit. They are being offered an enhanced retirement program by the University of California. The professors and the university want this program because the University has too many senior professors. They need to tenure more new professors. But when this University program comes along it applies to the great scientists, too, at our laboratories.

There is a morale problem built around the FBI and Justice Department from this last episode at Los Alamos, making a whole group of scientists in one of the most secret, most sophisticated, most important operations in nuclear weaponry in America feel as though they are criminals. They just do not appreciate this. They do not like that. Some of them have been there 35 years. They just do not like the FBI treating them all like criminals or even suggesting that, as patriotic scientists, they ought to take their lie detectors and be treated as if there is some criminal in their midst. Frankly, some have decided they are just not going to do that.

I do not know where that ends up, but I submit it ought to end up soon for those who are threatened by prosecution from that last episode of a hard drive being found behind some kind of a multipurpose machine. If there is no evidence of spying and no evidence of distributing information, they ought to get on with this. They ought to get on with it. They ought to even talk to some of these scientists, who have been working for us 30, 40 years, about their attorney's fees, because every one of them has been looked at, and told: You might be the one we're looking for. It couldn't be all of them.

When you put that kind of thing out, it labels everybody in a national laboratory. It includes our most patriotic nuclear physicist, who is one of the greatest design people in all of nuclear history. You are telling him: We are not quite sure about all this, but you may be the one, you could go to jail for 24 months—or whatever number is used. There is no spying. So why don't we get on with it? I have not said this publicly, but I thought I would use this opportunity tonight.

It is serious business. Did you know that we keep saying the only thing the Soviet Union is doing well, in spite of their economic depression and all the rest, is to maintain a pretty adequate and sophisticated nuclear delivery system? I could spend the evening telling you about the difference between the two.

They can maintain their weapons much easier than we can keep ours, because they make nuclear weapons differently. We make them sophisticated, complicated, and that is part of their greatness. They make them simple, robust, and re-make them very often, like every 10 years. They are not as worried about us. We keep them for many years, and then we try to prove they will last longer with this new program we are funding called the Stockpile Stewardship Program.

That is my little summary. There is much more to talk about. I thought it would be good tonight to put in perspective the significance of this bill. It is not just for the harbors of America. It is for those laboratories and plants that harbor the scientists, the manpower, and the equipment to keep our nuclear weapons on the right path. That is pretty important stuff, it seems to me.

My job is to make sure everybody at least understands part of it, so they will help us get out of the dilemma we are in and have a much more robust, much more positive atmosphere around these laboratories soon.

In conclusion, there is a new man in charge. We ought to be hopeful. General Gordon has been put in charge of this under the new law which you helped us with, I say to the Presiding Officer—and many did—which put one person in charge of the nuclear weapons aspects at the DOE. We are so fortunate we got a four-star general, CIA oriented, Sandia Lab-trained individual who in retirement took this job. If it is going to be fixed, he will fix it.

With that, I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 4105, WITHDRAWN

Mr. DURBIN. Mr. President, I ask unanimous consent to speak for up to 2 minutes and at the end of that time to withdraw my amendment, if there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Mr. DURBIN. Mr. President, I would like to thank the Senator from Missouri, Mr. BOND, as well as Senator REID and representatives from Senator DASCHLE's staff.

We just had a floor conversation about section 103, which has been the subject of great debate over the last several days. We are, as I said, close to at least common ground on the floor, but I do not believe we are at a point where we can put language in the bill to solve the problem between the administration and the committee. It is my heartfelt intention to work with Senator BOND, Senator DOMENICI, and Senator REID to try to do that.

This is an important bill. We don't want to go through and veto, have a return of the bill, if we can work it out. I hope we can. But I don't believe my amendment, in and of itself, is going to solve that problem this evening. Instead, I would like to, at the end of my remarks, ask unanimous consent to withdraw the amendment, and pledge between now and the conference and thereafter to work with all of the principals involved to see if we can work out the important question about the future of the Missouri River and the debate that took place both yesterday and today.

Mr. President, I ask unanimous consent to withdraw amendment No. 4105.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from Illinois and my friend from Missouri, I appreciate very much, as I am sure Senator DOMENICI does, resolving this temporarily at this time. Hopefully, the temporary delay will allow us, by the time we get to conference, to have a solution to the problem which will allow all parties to be satisfied. I appreciate very much Senator BOND, who is a veteran in State and national politics, understanding the quandary we are in tonight. I say the same to the Senator from Illinois, who is the epitome of a good legislator.

Senator DOMENICI and I will do everything we can, before conference and in conference, to try to resolve this matter finally. We recognize there is a veto threat on this bill, so it is in our interest to try to work something out also.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might say to both Senators, I very much appreciate their efforts. I think while they were talking, I was expressing to anyone who wanted to listen my heartfelt concerns about this bill in terms of the future of our nuclear weapons.

It would not be good if we wasted a year operating under last year's levels or operating under some kind of a veto. I join in not knowing what the veto threat really means. Nonetheless, it would be marvelous if we could work it out to their satisfaction so in some way the issue were resolved.

There is going to be a year hiatus, one way or another, when nothing is going to happen. I don't think the President is going to be able to deny us that. But I think if we worked it out where everybody understood and maybe we could convince him that that is a good idea—that means his council on environmental quality and others—it would be a very good thing for the United States. I hope it works out.

I compliment Senator BOND this evening and earlier on this bill. I think he made a very strong case. It is pretty obvious this is a difficult issue. As he knows, I have been on his side. I have similar problems with endangered species and other things out in the West. We don't have enough water. All our rivers combined don't equal the Missouri River. I think that is a pretty fair statement—maybe even half the flow for all of ours that we have. We don't quite understand how the Missouri River is a problem. We see it as something fantastic. One time we tried to get a little bit of it, take it west, and Scoop Jackson stood in the way, I guess, from the State of Washington.

Anyway, I thank the Senator for what he has done. There is not going to be a vote tonight on that issue.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I appreciate the cooperation of the Senator from Illinois, with whom I think we have reached an agreement that there should not be a spring rise in 2001.

I believe there are some areas that go beyond the existing section 103 on which we might be able to satisfy some of the legitimate concerns raised by the minority leader. He was concerned about the possibility of cutting off debate, cutting off all consideration of other issues relating to the Missouri River manual. That was not our intent. If we can add language that will clarify that, maybe it will at least satisfy some of these problems.

Also, we have a Governor and we have other congressional Members from States affected who might want to communicate with the White House about the workability of this.

To the Senator from New Mexico and the Senator from Nevada, I appreciate the difficulties they faced. They have both been most accommodating on these issues. We don't want to make life more difficult for them. The Senator from New Mexico may not have river problems, but he has had controlled burn problems. We want to make sure we don't have a controlled flood problem.

I am delighted we don't have to ask our colleagues to vote again on this issue tonight. I think there may be further clarification that might satisfy some of the concerns that were raised, certainly by the minority leader. I will be happy to work with them.

On behalf of the State of Missouri and the people of the State of Missouri, I express my appreciation to this body for making it clear that there will not be a controlled flood on the Missouri River or abnormally low flows during the summer of 2001, the year to which this appropriations bill applies.

As always, we are more than happy to work with the committee leaders in trying to resolve these problems in the future. I thank my colleagues for their understanding of the importance of this issue to the people I represent.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I believe I have a unanimous consent request pending to withdraw amendment No. 4105.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

AMENDMENT NO. 4109, AS MODIFIED

Mr. TORRICELLI. Mr. President, I have an amendment, No. 4109, filed with the clerk. It is my understanding that will be in the manager's package. I do not, therefore, call it to the floor of the Senate at this time.

I do wish for a moment to discuss with my colleagues the merits of this legislation and to thank the Senator from New Mexico and the Senator from Nevada for their cooperation and their assistance.

Within this legislation is $27 million to deepen and widen the main channel of the Delaware River. To the city of Philadelphia, the city of Camden, and the States of New Jersey, Delaware, and Pennsylvania, this is of some considerable importance. The Delaware River is a major artery of maritime commerce. I have always supported, and I will always support that river being efficient and available to maritime traffic, but there are serious problems.

When this legislation was considered in the House, my colleague, Representative ANDREWS from southern New Jersey, with the support of Congressman KASICH, offered an amendment to strike this funding. I will not do that tonight because I believe, first, the votes are not available and, second, I still hope the general problems with this dredging can be solved.

The problems are relatively simple. The U.S. Army Corps of Engineers has proposed to dredge 33 million yards of material from the Delaware River. Three States will benefit by this dredging. Primarily the benefits will go to Philadelphia and the State of Pennsylvania, simply based on the size of the economic activity in the region by these States comparatively. Ten million of these 33 million yards will be used to replenish beaches in the State of Delaware. Twenty-three million yards will be placed on prime waterfront property in the State of New Jersey. Ten million goes to Delaware; 23 million occupies prime real estate in the State of New Jersey. And although the principal economic benefits of the dredging are for the city of Philadelphia, none—I repeat, not an ounce—of the material goes to the State of Pennsylvania.

Now I recognize we all have to share the burden, and we may not share the burden equally; it may not be shared proportionally to the economic benefit. But certainly accepting nothing, while the State of New Jersey takes the overwhelming majority of the material, cannot be right and it cannot be fair. Let me make clear that Senator SPECTER and Senator SANTORUM have been remarkably helpful in this matter. They have understood the inequity. They want the three States to work cooperatively. I am very grateful to both of them that, while protecting the interests of their State first and foremost, they have been good neighbors and have been cooperative.

I believe there are solutions to this problem: Primarily, ironically, that while this material is being dumped on the shorelines of New Jersey to our disadvantage, there is an enormous desire by construction companies and others in land development to have this material available.

It is a strange and ironic, even tragic, situation. I hope by this experience, which is also happening in the Port of New York, the Army Corps of Engineers will begin to understand and learn from the situation. Contracting companies, land development companies, major corporations, and communities want this material. Market it, sell it, use it, but no longer use it as if it is a waste material to be dumped on valuable real estate, on the unwanted.

Because of that, in my amendment, we reserve $200,000 for the Army Corps of Engineers to begin actively marketing this material for private and public projects—from road projects in south Jersey, to the future expansion of the Philadelphia Airport, to new construction in Atlantic City, there are willing users, even buyers. This $200,000 can go a long way to solving this problem. Particularly, I thank Senators SPECTER and SANTORUM for their help and cooperation. Of course, to Senator BIDEN, the Senator from New Mexico, and the Senator from Nevada, I am grateful that this is being put in the managers' amendment. I thank them for this time.

I yield the floor.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. Mr. President, I will withhold that. We are within a few minutes of having the last amendments ready that we have been working on collectively and collaboratively. Then we will be ready for final passage very soon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 4017, 4044, 4059, 4089, 4099, 4110, AND 4111, EN BLOC

Mr. DOMENICI. Mr. President, I want to add to the list of managers' agreed-to amendments, all of which are filed and at the desk, starting with Nos. 4017, 4044, 4059, 4089, 4099, 4110, and 4111.

I ask unanimous consent that they be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 4017, 4044, 4059, 4089, 4099, 4110, and 4111) were agreed to en bloc, as follows:

AMENDMENT NO. 4017

(Purpose: To authorize the Secretary of the Interior to enter into contracts with the city of Loveland, Colorado, to use Colorado-Big Thompson Project facilities for the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes)

On page 66, between lines 11 and 12, insert the following:

SEC. 2___. USE OF COLORADO-BIG THOMPSON PROJECT FACILITIES FOR NONPROJECT WATER.

The Secretary of the Interior may enter into contracts with the city of Loveland, Colorado, or its Water and Power Department or any other agency, public utility, or enterprise of the city, providing for the use of facilities of the Colorado-Big Thompson Project, Colorado, under the Act of February 21, 1911 (43 U.S.C. 523), for—

(1) the impounding, storage, and carriage of nonproject water originating on the eastern slope of the Rocky Mountains for domestic, municipal, industrial, and other beneficial purposes; and

(2) the exchange of water originating on the eastern slope of the Rocky Mountains for the purposes specified in paragraph (1), using facilities associated with the Colorado-Big Thompson Project, Colorado.

AMENDMENT NO. 4044

SECTION 1. FUNDING OF THE COASTAL WETLANDS PLANNING, PROTECTION AND RESTORATION ACT.

Section 4(a) of the Act of August 9, 1950 (16 U.S.C. 777c(a)), is amended in the second sentence by striking ''2000'' and inserting ''2009''.

AMENDMENT NO. 4059

(Purpose: To provide $3,000,000 for technology development and demonstration program in Combined Cooling, Heating and Power Technology Development for Thermal Load Management, District Energy Systems, and Distributed Generation)

On line 4, page 67, after the word ''Fund:'' Insert the following:

''Provided, That $3,000,000 shall be made available for technology development and demonstration program in Combined Cooling, Heating and Power Technology Development for Thermal Load Management, District Energy Systems, and Distributed Generation, based upon natural gas, hydrogen, and renewable energy technologies. Further, the program is to be carried out by the Oak Ridge National Laboratory through its Building Equipment Technology Program.''

AMENDMENT NO. 4089

(Purpose: To set aside funding for participation by the Idaho National Engineering and Environmental Laboratory in the Greater Yellowstone Energy and Transportation Systems Study)

On page 68, line 15, strike ''expended:'' and insert ''expended, of which $500,000 shall be available for participation by the Idaho National Engineering and Environmental Laboratory in the Greater Yellowstone Energy and Transportation Systems Study:''.

AMENDMENT NO. 4099

(Purpose: To extend the authority of the Nuclear Regulatory Commission to collect fees through 2005 and improve the administration of the Atomic Energy Act of 1954)

On page 97, between lines 14 and 15, insert the following:

TITLE ____—NUCLEAR REGULATORY COMMISSION

Subtitle A—Funding

SEC. ___01. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—

(1) in subsection (a)(3), by striking ''September 30, 1999'' and inserting ''September 20, 2005''; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting ''or certificate holder'' after ''licensee''; and

(B) by striking paragraph (2) and inserting the following:

''(2) AGGREGATE AMOUNT OF CHARGES.—

''(A) IN GENERAL.—The aggregate amount of the annual charges collected from all licensees and certificate holders in a fiscal year shall equal an amount that approximates the percentages of the budget authority of the Commission for the fiscal year stated in subparagraph (B), less—

''(i) amounts collected under subsection (b) during the fiscal year; and

''(ii) amounts appropriated to the Commission from the Nuclear Waste Fund for the fiscal year.

''(B) PERCENTAGES.—The percentages referred to in subparagraph (A) are—

''(i) 98 percent for fiscal year 2002;

''(ii) 96 percent for fiscal year 2003;

''(iii) 94 percent for fiscal year 2004;

''(iv) 92 percent for fiscal year 2005; and

''(v) 88 percent for fiscal year 2006.''.

SEC. ___02. NUCLEAR REGULATORY COMMISSION AUTHORITY OVER FORMER LICENSEES FOR DECOMMISSIONING FUNDING.

Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking ''and (3)'' and inserting ''(3)''; and

(2) by inserting before the semicolon at the end the following: '', and (4) to ensure that

sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility''.

SEC. ___03. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking '', or which operates any facility regulated or certified under section 1701 or 1702,'';

(2) by striking ''483a'' and inserting ''9701''; and

(3) by inserting before the period at the end the following: '', and, commencing October 1, 2000, prescribe and collect from any other Government agency any fee, charge, or price that the Commission may require in accordance with section 9701 of title 31, United States Code, or any other law''.

Subtitle B—Other Provisions

SEC. ___11. OFFICE LOCATION.

Section 23 of the Atomic Energy Act of 1954 (42 U.S.C. 2033) is amended by striking ''; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia''.

SEC. ___12. LICENSE PERIOD.

Section 103c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking ''c. Each such'' and inserting the following:

''c. LICENSE PERIOD.—

''(1) IN GENERAL.—Each such''; and

(2) by adding at the end the following:

''(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185(b), the initial duration of the license may not exceed 40 years from the date on which the Commission finds, before operation of the facility, that the acceptance criteria required by section 185(b) are met.''.

SEC. ___13. ELIMINATION OF NRC ANTITRUST REVIEWS.

Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by adding at the end the following:

''(d) APPLICABILITY.—Subsection (c) shall not apply to an application for a license to construct or operate a utilization facility under section 103 or 104(b) that is pending on or that is filed on or after the date of enactment of this subsection.''.

SEC. ___14. GIFT ACCEPTANCE AUTHORITY.

(a) IN GENERAL.—Section 161g. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(g)) is amended—

(1) by inserting ''(1)'' after ''(g)'';

(2) by striking ''this Act;'' and inserting ''this Act; or''; and

(3) by adding at the end the following:

''(2) accept, hold, utilize, and administer gifts of real and personal property (not including money) for the purpose of aiding or facilitating the work of the Nuclear Regulatory Commission.''.

(b) CRITERIA FOR ACCEPTANCE OF GIFTS.—

(1) IN GENERAL.—Chapter 14 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

''SEC. 170C. CRITERIA FOR ACCEPTANCE OF GIFTS.

''(a) IN GENERAL.—The Commission shall establish written criteria for determining whether to accept gifts under section 161g.(2).

''(b) CONSIDERATIONS.—The criteria under subsection (a) shall take into consideration whether the acceptance of the gift would compromise the integrity of, or the appearance of the integrity of, the Commission or any officer or employee of the Commission.''.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The table of contents of chapter 14 of title I of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end the following:

''Sec. 170C. Criteria for acceptance of gifts.''.

SEC. ___15. CARRYING OF FIREARMS BY LICENSEE EMPLOYEES.

(a) IN GENERAL.—Chapter 14 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by section ___14(b)(1)) is amended—

(1) in section 161, by striking subsection k. and inserting the following:

''(k) authorize to carry a firearm in the performance of official duties such of its members, officers, and employees, such of the employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities, and such of the employees of persons licensed or certified by the Commission (including employees of contractors of licensees or certificate holders) engaged in the protection of facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission or in the protection of property of significance to the common defense and security located at facilities owned or operated by a Commission licensee or certificate holder or being transported to or from such facilities, as the Commission considers necessary in the interest of the common defense and security;'' and

(2) by adding at the end the following:

''SEC. 170D. CARRYING OF FIREARMS.

''(a) AUTHORITY TO MAKE ARREST.—

''(1) IN GENERAL.—A person authorized under section 161k. to carry a firearm may, while in the performance of, and in connection with, official duties, arrest an individual without a warrant for any offense against the United States committed in the presence of the person or for any felony under the laws of the United States if the person has a reasonable ground to believe that the individual has committed or is committing such a felony.

''(2) LIMITATION.—An employee of a contractor or subcontractor or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to make an arrest under paragraph (1) may make an arrest only—

''(A) when the individual is within, or is in flight directly from, the area in which the offense was committed; and

''(B) in the enforcement of—

''(i) a law regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission or a licensee or certificate holder of the Commission;

''(ii) a law applicable to facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission under section 161k.;

''(iii) a law applicable to property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission; or

''(iv) any provision of this Act that subjects an offender to a fine, imprisonment, or both.

''(3) OTHER AUTHORITY.—The arrest authority conferred by this section is in addition to any arrest authority under other law.

''(4) GUIDELINES.—The Secretary and the Commission, with the approval of the Attorney General, shall issue guidelines to implement section 161k. and this subsection.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of contents of chapter 14 of title I of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by section ___14(b)(2)) is amended by adding at the end the following:

''Sec. 170D. Carrying of firearms.''.

SEC. ___16. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended in the first sentence by inserting ''or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act'' before the period at the end.

SEC. ___17. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in paragraph (2), by striking ''storage facility'' and inserting ''storage, treatment, or disposal facility'';

(2) in paragraph (3)—

(A) by striking ''such a utilization facility'' and inserting ''a utilization facility licensed under this Act''; and

(B) by striking ''or'' at the end;

(3) in paragraph (4)—

(A) by striking ''facility licensed'' and inserting ''or nuclear fuel fabrication facility licensed or certified''; and

(B) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the person knows or reasonably should know that there is a significant possibility that the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility.''

AMENDMENT NO. 4110

(Purpose: To redesignate the Interstate Sanitation Commission as the Interstate Environmental Commission, and for other purposes)

At the appropriate place, insert the following:

SECTION 1. REDESIGNATION OF INTERSTATE SANITATION COMMISSION AND DISTRICT.

(a) INTERSTATE SANITATION COMMISSION.—

(1) IN GENERAL.—The district known as the ''Interstate Sanitation Commission'', established by article III of the Tri-State Compact described in the Resolution entitled, ''A Joint Resolution granting the consent of Congress to the States of New York, New Jersey, and Connecticut to enter into a compact for the creation of the Interstate Sanitation District and the establishment of the Interstate Sanitation Commission'', approved August 27, 1935 (49 Stat. 933), is redesignated as the ''Interstate Environmental Commission''.

(2) REFERENCES.—Any reference in a law, regulation, map, document, paper, or other record of the United States to the Interstate Sanitation Commission shall be deemed to be a reference to the Interstate Environmental Commission.

(b) INTERSTATE SANITATION DISTRICT.—

(1) IN GENERAL.—The district known as the ''Interstate Sanitation District'', established by article II of the Tri-State Compact described in the Resolution entitled, ''A Joint Resolution granting the consent of Congress

to the States of New York, New Jersey, and Connecticut to enter into a compact for the creation of the Interstate Sanitation District and the establishment of the Interstate Sanitation Commission'', approved August 27, 1935 (49 Stat. 932), is redesignated as the ''Interstate Environmental District''.

(2) REFERENCES.—Any reference in a law, regulation, map, document, paper, or other record of the United States to the Interstate Sanitation District shall be deemed to be a reference to the Interstate Environmental District.

AMENDMENT NO. 4111

On page 68, line 21 after the word ''program'' insert the following:

''; Provided Further, That $12,500,000 of the funds appropriated herein shall be available for Molecular Nuclear Medicine.''

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4041, AS MODIFIED

Mr. DOMENICI. Mr. President, I am going to send about four amendments that have been modified and agreed to.

I send amendment No. 4041, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for Mr. GRAMS, proposes an amendment numbered 4041.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of Energy to submit to Congress a report on impacts of a state-imposed limit on the quantity of spent nuclear fuel that may be stored onsite)

On page 90, between lines 6 and 7, insert the following:

SEC. 3___. REPORT ON IMPACTS OF A STATE-IMPOSED LIMIT ON THE QUANTITY OF SPENT NUCLEAR FUEL THAT MAY BE STORED ONSITE.

(a) SECRETARY OF ENERGY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report containing a description of all alternatives that are available to the Northern States Power Company and the Federal Government to allow the Company to continue to operate the Prairie Island Nuclear Generating Plant until the end of the term of the license issued to the Company by the Nuclear Regulatory Commission, in view of a law of the State of Minnesota that limits the quantity of spent nuclear fuel that may be stored at the Plant, assuming that existing Federal and State laws remain unchanged.

Mr. DOMENICI. Mr. President, I yield any time I might have.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4041), as modified, was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 4060, 4087, 4091, 4108, 4109, AND 4113, EN BLOC, AS MODIFIED

Mr. DOMENICI. Mr. President, I send amendments that are at the desk that have been modified: Amendment No. 4060, as modified; modification of amendment No. 4087; modification of amendment No. 4091, all of which are printed and at the desk; amendment No. 4108 as modified; amendment No. 4109, as modified; and amendment No. 4113, as modified.

I send them to the desk and ask unanimous consent that they be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

The amendments (Nos. 4060, 4087, 4091, 4108, 4109, and 4113) were agreed to en bloc, as follows:

AMENDMENT NO. 4060, AS MODIFIED

(Purpose: To prohibit the use of funds to promote or advertise any public tour of a facility or project of the Department of Energy)

On page 90, between lines 6 and 7, insert the following:

SEC. 3_____. LIMITATION ON USE OF FUNDS TO PROMOTE OR ADVERTISE PUBLIC TOURS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available under this title shall be used to promote or advertise any public tour of Yucca Mountain facility of the Department of Energy.

(b) APPLICABILITY.—Subsection (a) does not apply to a public notice that is required by statute or regulation.

AMENDMENT NO. 4087, AS MODIFIED

(Purpose: To extend certain contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from the Glendo Reservoir)

At the appropriate place in the bill, insert the following new section and renumber any remaining sections accordingly:

''SEC. _____. AMENDMENT TO IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1998.

(a) Section 2(a) of the Irrigation Project Contract Extension Act of 1998, Pub. L. No. 105–293, is amended by striking the date ''December 31, 2000'', and inserting in lieu thereof the date ''December 31, 2003.'';

(b) Subsection 2(b) of the Irrigation Project Contract Extension Act of 1998, Pub. L. No. 105–293, is amended by:

(1) striking the phrase ''not to go beyond December 31, 2001'', and inserting in lieu thereof the phrase ''not to go beyond December 31, 2003''; and

(2) striking the phrase ''terminates prior to December 31, 2000'', and inserting in lieu thereof ''terminates prior to December 31, 2003.''

AMENDMENT NO. 4091, AS MODIFIED

(Purpose: To provide funding for a flood control project in Minnesota)

On page 52, line 2, insert the following before the period:

''Provide further, That $500,000 of the funding appropriated herein shall be used to undertake the Hay Creek, Roseau County, Minnesota Flood Control Project under Section 206 funding.

AMENDMENT NO. 4108, AS MODIFIED

(Purpose: To direct the Administrator of the Environmental Protection Agency to develop standards for evaluating dredged material for remediation purposes at, and to provide funding for a nonocean alternative remediation demonstration project for dredged material at, the Historic Area Remediation Site, New Jersey)

On page 58, between lines 13 and 14, insert the following:

SEC. 1. APPROPRIATION FOR ALTERNATIVE NONOCEAN REMEDIATION SITES.

The Secretary of the Army may use up to $1,000,000 of available funds to carry out a nonocean alternative remediation demonstration project for dredged material at the Historic Area Remediation Site.

AMENDMENT NO. 4109, AS MODIFIED

(Purpose: To set aside funds to establish a program for direct marketing of certain dredged material to public agencies and private entities)

On page 53, line 8, after ''facilities'', insert the following: '', and of which $150,000 of funds made available for the Delaware River, Philadelphia to the Sea, shall be made available for the Philadelphia District of the Corps of Engineers to establish a program to allow the direct marketing of dredged material from the Delaware River Deepening Project to public agencies and private entities''.

AMENDMENT NO. 4113, AS MODIFIED

(Purpose: To set aside funding for an ethanol demonstration project)

On page 67, line 4, strike ''Fund:'' and insert ''Fund, and of which $100,000 shall be made available to Western Biomass Energy LLC for an ethanol demonstration project:''.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, does Senator REID have anything further to add?

Mr. REID. Mr. President, I want to express my appreciation to the chairman of the Budget Committee and to the chairman of this subcommittee for the great work he has done. He has been a pleasure to work with.

I also express my appreciation to your very excellent staff. David Gwaltney and Lashawnda Smith have been tremendous to work with. My staff complimented them through me on many occasions.

I also want to thank Steve Bell, chief of staff; and Drew Willison has done such a brilliant job, assisted by your detailee from the Army Corps of Engineers from Vicksburg; and Elizabeth Blevins of the subcommittee staff.

Mr. DOMENICI. Mr. President, I have already mentioned today and on another occasion the importance of this bill. I thank all Senators for cooperating. We did our very best on the numerous amendments, and we will do our very best in conference. Everyone knows we are very short of money on the nondefense side. If we can get some assistance from the appropriations committee, we will be able to help solve many of these problems in conference.

In the meantime, I want to say to Senator REID that it is always a pleasure to work with him. We will go to conference and do the best we can.

I want to thank Drew Willison of Senator REID's staff. He is a tremendous asset, and we very much like working with him.

I thank the Senator for his thanks to the two members of my staff. They are truly professional, and I am very grateful to them.

Mr. President, we have nothing further. I ask for the yeas and nays on final passage of this bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

HOUGHTON LAKE IN MICHIGAN

Mr. LEVIN. Mr. President, as the Senate considers the Fiscal Year 2001 Appropriations Act for Energy and Water Development, I wonder if the Senator from Nevada would answer a question about funding for a serious problem with Houghton Lake in Michigan.

Mr. REID. Mr. President, I would be pleased to offer any information about this bill to my friend from Michigan.

Mr. LEVIN. I thank the Senator. Is it correct that the Committee has provided $6,700,000 for the Corps of Engineers' planning assistance to States program and that only $200,000 of this funding is currently obligated to a specific project?

Mr. REID. The Senator from Michigan is correct.

Mr. LEVIN. I would ask if the Senator would be willing to consider in conference a request of $75,000 to conduct a comprehensive water management study for Houghton Lake, MI. The Eurasian milfoil is a non-indigenous water plant that floats on the water's surface and forms large mats of plants, which lower the oxygen levels in the water below them, killing fish and making passage by boat very difficult. A large amount of the lake's surface has been infested by the milfoil.

Mr. REID. I understand that this matter is of great importance to the Senator from Michigan and the people he represents. I can assure my friend that I will attempt to provide that funding in Conference.

Mr. LEVIN. Mr. President, as always, I appreciate the courtesy of the distinguished Senator from Nevada.

NATIONAL SYNCHROTRON LIGHT SOURCE

Mr. SCHUMER. I would first like to thank Senator REID and Senator DOMENICI for their leadership and continued funding of science and research facilities.

I would like to take a moment to engage my colleague in a colloquy.

Mr. REID. I thank the Senator for his kind words and would be happy to engage in a colloquy with him.

Mr. SCHUMER. Mr. President, due to severe budget constraints in the Fiscal Year 2001 Energy and Water Appropriations, additional funding has not been made available for the National Synchrotron Light Source at Brookhaven National Laboratory. The President's FY2001 Budget included $3 million for upgrades and enhancements to the NSLS at Brookhaven National Laboratory under the Basic Energy Science (BES) account. The NSLS facility at Brookhaven, bringing 2,300 scientists annually is used for a whole host of issues, ranging from the first images of the AIDS virus attaching itself to a human cell; landmark progress in understanding the structure of the ribosome, the most complex component in each living cell; pivotal work on the Lyme disease bacterium, leading to a vaccine; and pioneering studies on hepatitis. These additional funds will allow Brookhaven to begin construction of two experimental stations and to hire additional staff members, which are essential in handling the growing demand of this facility.

I ask the Senator from Nevada that if additional funds are made available for the Energy and Water Appropriations Bill, that the enhancements to the NSLS be added to the current funding for Brookhaven.

Mr. REID. I agree with the Senator from New York that the additional funding for the NSLS is a high priority and the enhancements will allow more people to research and develop experiments that will effect the future of our world. Unfortunately funding constraints have prohibited the Committee from including these essential funds. When additional resources become available, we will give the NSLS priority consideration under additional science funding.

Mr. SCHUMER. I thank the Senator from Nevada for helping with this priority issue.

THE CLINTON RIVER SPILLWAY

Mr. LEVIN. Mr. President, we have before the Senate the Fiscal Year 2001 Appropriations Act for Energy and Water Development.

I thank the Committee for including an $100,000 appropriation for the Clinton River Spillway for an evaluation to determine whether the Clinton River Spillway in Michigan has a design deficiency requiring remediation.

During the 1950's, the United States Army Corps of Engineers constructed a dam on the Clinton River and a spillway to alleviate flooding. Since the completion of the project, debris has built up at the confluence of the Clinton River and spillway.

I agree with the Committee that a study must be conducted, however I ask that the study include an analysis of the cause of the debris build up as well as a determination as to whether or not there is a design deficiency. This is a continuing problem in this river basin and the Corps needs to examine the cause of the problem in order to devise a long term solution.

Mr. REID. The Senator from Michigan is correct. The cause of this problem needs to be determined and the Corps needs to include causation as a part of this study. I assure the Senator that we will interpret the study to include a causation analysis.

Mr. LEVIN. I thank the Senator from Nevada.

THE ROUGE RIVER IN SOUTHFIELD MICHIGAN

Mr. LEVIN. Mr. President, as the Senate considers the Fiscal Year 2001 Appropriations Act for Energy and Water Development, I wonder if the distinguished Senator from Nevada would answer a question regarding Emergency streambank and shoreline protection—sec. 14—funds?

Mr. REID. Mr. President, I would be pleased to offer any information about this bill to my friend from Michigan.

Mr. LEVIN. I thank the Senator. Is it correct that the Committee has included $8,000,000 for section 14, Emergency streambank and shoreline erosion protection?

Mr. REID. The Senator from Michigan is correct.

Mr. LEVIN. I thank the Senator from Nevada. I would also ask if the Senator would be willing to consider in conference a request of $40,000 for the Rouge River in Southfield, Michigan. A large slope area on the banks of the Rouge River has collapsed and is currently threatening public infrastructure. This area must be stabilized and restored before winter sets in to prevent damage to the sanitary sewer and to eliminate the threat of pollution to the Rouge River. This is a very urgent project.

Mr. REID. I understand that this matter is of great importance to the Senator from Michigan and the people he represents. I can assure my friend that I will carefully consider his request in Conference.

Mr. LEVIN. As always, I appreciate the courtesy of the distinguished Senator from Nevada.

THE BRUNSWICK HARBOR DEEPENING PROJECT IN BRUNSWICK, GEORGIA

Mr. CLELAND. Thank you, Mr. President. I rise today to discuss the current situation of Brunswick Harbor, an issue which is very important to me. I hope that I can engage the Chairman and the Ranking Member of the Senate Energy and Water Subcommittee in a floor discussion of this key matter.

The Brunswick Harbor deepening project, which was authorized in the 1999 Water Resources Develop Act, has received a favorable report from the U.S. Army Corps of Engineers and has met all required cost-benefit and environmental reviews. Preconstruction engineering and design are in the final stages. In order to keep this project on schedule, it is necessary to complete several administrative requirements before the deepening project begins. Namely, the Corps of Engineers and the Non-Federal sponsor must initiate Project Cooperation Agreement discussions, complete the final project design, and develop contract award documents. I have requested a modest funding level of $255,000 to carry out these tasks. Unfortunately, no funds were provided in the House or Senate bills.

I believe it is important to take action on this issue immediately. Navigation channel restrictions in Brunswick have cost shippers and consumers a significant amount in lost revenue. The current controlled depth of 30 feet subjects 57 percent of the vessels to tidal delays, sub-optimal loading and inefficient port rotations. In fact, it is estimated that these delays result in an annual loss of $6.65 million in revenue. We can avoid incurring these losses another year by providing nominal funding to complete the required administrative processes.

I would echo the remarks of the Committee's report language which notes the importance of our waterways and harbors to our national transportation system. The Port of Brunswick plays an integral role in supporting the maritime transportation arm of our national infrastructure. Additionally, I would say that the Port of Brunswick is very much an intermodal facility. Brunswick is well-connected to our nation's system of highways and railroads, providing increased opportunities for commercial transportation.

I will go one step further in stating that the Port of Brunswick is not only important to our national transportation system, but it is important to our national defense. Located between Savannah and Jacksonville, Brunswick is readily accessible to the numerous military installations in the region. As a member of the Senate Armed Services Committee, and as a former Army Officer, I know very well the need to move troops, tanks, and supplies as rapidly as possible. During a war, more than 95 percent of all the equipment and supplies needed to sustain the U.S. military are carried by sea. The potential for the Port of Brunswick to play a major role in the movement of military cargo must not be overlooked, nor must it be hindered by administrative delays.

I understand the tight budget restraints the Subcommittee faces this year, and I respect the fact that there will be no ''new start'' projects appropriated. However, we are not attempting to start dredging in Brunswick. We are simply trying to complete the administrative requirements which are necessary prior to such action. I appeal to my colleagues to help me keep the Brunswick Harbor deepening project on schedule through the inclusion of funds in Conference with the House. In fact, I believe we can proceed with the Project Cooperation Agreement, the final project design, and the development of contract awards if the Conference Committee were to simply include favorable report language to this effect. I thank my distinguished colleagues, and I yield the floor.

Mr. MILLER. I, too, would like to offer a few comments relative to the Brunswick Harbor deepening project. Although I have been a member of the Senate for only a short while, I certainly understand the importance of this project and I fully support the inclusion of funds to keep it on schedule. Brunswick handles cargoes important to the region such as grain, gypsum, limestone, perlite, potash, oats, wood pulp, and motor vehicles. As the region has grown, so has the size of the vessels calling on the Port. I am very concerned that if we further delay the deepening project, we run the risk of hindering economic growth. This concern is underscored by the fact that the number of operational delays has increased by 36 percent since 1984. I believe that it is essential to stay the course and keep the project on schedule, and I join my colleague in urging the inclusion of $255,000 to support the administrative tasks which must be completed this year.

Mr. REID. I thank the Senators from Georgia. I share your concern for the funding of this important project, and I assure you that I will give this project due consideration in conference with the House. Should additional funds become available, as I hope they will, the Brunswick Harbor Deepening Project will be one of my chief priorities, and I will support the inclusion of the report language sought by the Georgia Senators.

BONNEVILLE POWER ADMINISTRATION

Mr. DOMENICI. Mr. President, I see the senior Senator from Washington, Senator GORTON, on the floor. Our committee report on this bill includes language he recommended relative to the particular challenges the Bonneville Power Administration status as a Federal agency presents to the BPA in its possible participation in a regional transmission organization. Our report acknowledges that certain steps may need to be taken to mitigate impacts on BPA employees, and that legislation may be necessary. I understand that the Senator from Washington would like to comment further on this issue.

Mr. GORTON. Mr. President, I thank the chairman. I appreciate his interest in this matter and his willingness to consider legislative remedies, should they become necessary. I only want to make clear for the record that if administrative remedies are insufficient to protect the rights and benefits of BPA employees should they move into a new regional transmission organization, then any legislative remedy that might be proposed will be developed in full consultation with other stakeholders in the region and other participants in the RTO. Since any legislation that may be developed may very well be carried as an administrative provision in this bill, I wanted to be sure the manager knew that this is my intent.

Mr. DOMENICI. I appreciate that elaboration, Mr. President, and look forward to working with Senator GORTON on this issue of great interest to his constituents.

FERNALD ENVIRONMENTAL MANAGEMENT PROJECT

Mr. DEWINE. Mr. President, I would like to engage the distinguished Senator from New Mexico, and floor manager of the pending bill, Senator DOMENICI in a colloquy.

Mr. DOMENICI. I would be pleased to respond to the distinguished Senator from Ohio, Senator DEWINE.

Mr. DEWINE. I thank the Senator. Senator, last year we discussed the tremendous progress being made at the Fernald Site in my home state of Ohio. It is in many ways a model of what can be done to safely and effectively clean-up a former weapons production site left from the cold war. The Fernald site is poised to be the first major DOE site to be cleaned-up and in effect 'taken off the books.' Wouldn't the Senator agree that this effort deserves both our appreciation and support?

Mr. DOMENICI. Absolutely, I concur with the Senator.

Mr. DEWINE. I thank the Chairman. In the event that additional resources become available, I ask the chairman to help secure additional resources for the Fernald project to ensure that the pace of closing the site by 2006 is assured. I further ask the Chairman if he would support my call to the DOE to make an expeditious decision concerning the site contractor. There is no competition—the site is running smoothly—let's give them the resources they need and demonstrate that at least one project can be completed on budget and on schedule without any further delays.

Mr. DOMENICI. The Committee once again recognizes the outstanding contributions of the entire effort at the Fernald site-workers, community leaders, and regulators. We will try to support the Senators request and encourage the DOE to make an expeditious decision concerning the pending contract.

Mr. ALLARD. Mr. President, I would like to briefly engage Senator DOMENICI, Chairman of the Energy and Water Appropriations Subcommittee on an important energy issue.

Mr. DOMENICI. I would be happy to oblige the Senator from Colorado.

Mr. ALLARD. Thank you Mr. Chairman. Mr. President, I would like to thank Senator DOMENICI for his hard work on this important bill. In particular I would like to thank him for his actions in response to requests by many, including this Senator, on behalf of renewable energy. These funds will go far to help in many areas of science, the environment, national security and the economy. On a related topic, I wonder if I could briefly discuss the Consortium for Plant Biotechnology Research (CPBR) with the Chairman.

Mr. DOMENICI. I would inform the Senator from Colorado that I am aware of CPBR's work and would be happy to address the Senator on this topic.

Mr. ALLARD. As I'm sure the Chairman knows, research that has been undertaken by CPBR's member universities, including the University of Colorado, in conjunction with the Department of Energy has led to improved biomass energy technologies that help develop a competitive biomass-based energy industry and a safer, cleaner environment.

Mr. DOMENICI. I appreciate the words of the Senator from Colorado and would note that New Mexico State University is an important partner in the consortium. Unfortunately, due to our subcommittee allocation, there was not enough room in the Senate mark to cover many good programs and projects.

Mr. ALLARD. Mr. President, I thank the Chairman for his time and would encourage him to consider the important work of CPBR when this bill moves to conference with the other body.

GENERAL INVESTIGATIONS ACTIVITIES OF THE CORPS OF ENGINEERS

Mr. WARNER. Mr. President, I would like to engage in a colloquy with the Chairman of the Energy and Water Development Appropriations Subcommittee regarding the General Investigations Activities of the Corps of Engineers.

The Corps of Engineers is authorized to repair the Goshen Dam/Spillway system on Lake Merriweather in Rockbridge, Virginia. This dam is classified as a ''high hazard'' dam according to the Federal Dam Safety Guidelines because its failure threatens the downstream community of Wilson Springs. The Corps has completed a Technical Report on the engineering and design specifications for the project's repairs and upgrades.

The House passed bill includes $150,000 for further planning and design activities for this important project. I call this situation to the attention of the Chairman and respectfully request that he give favorable consideration to this matter in conference.

Mr. DOMENICI. I thank Senator WARNER for bringing this matter to may attention. I am aware that this facility is utilized by the National Capital Area Boy Scouts organization. It is important that the non-federal sponsor finance their share of the costs of these safety repairs and I am aware that the Commonwealth of Virginia may become the non-federal sponsor.

I know how important this project is to the Senator and I will give it full consideration during Conference.

DELTA REGIONAL AUTHORITY

Mr. COCHRAN. Mr. President, the Mississippi River Delta possesses many common characteristics and unique problems throughout the 7-state alluvial floodplain which it encompasses. The subcommittee report includes funding for a new Delta Regional Authority, an economic development effort aimed at extending special help to an area of the country that I have long considered to be a special part of my state and this nation.

I am concerned that many of the real needs in the region never feel the full impact of federal assistance efforts because of the centrally-planned and bureaucratic delivery systems which accompanied some of these initiatives. Because of this history, the people of the region have become skeptical about new election year promises of federal assistance.

I would like to ask the distinguished chairman of the subcommittee for clarification of the intent and purpose of this funding. First, how is the Delta defined for purpose of extending this proposed federal assistance?

Mr. DOMENICI. The provisions included in the bill do not specifically define the Delta.

Mr. COCHRAN. The historical Delta area is the Mississippi Alluvial Valley, which includes only small portions of Tennessee and Kentucky, the typically flat and gently-sloping land of eastern Louisiana and Arkansas, Northwest Mississippi, the boot-heel of Missouri, and the Cache River lowlands of Illinois. Is it the Committee's intent that the Delta, for purposes of the federal assistance in this appropriation measure, be defined as that land which underlies those communities, counties, parishes and part-counties, which are geographically delineated by the topography commonly recognized as the Delta alluvial floodplain?

Mr. DOMENICI. Yes. It is my understanding that this is the area suffering most in terms of economic distress.

Mr. COCHRAN. As the distinguished chairman knows, the Delta suffers from an acute need for infrastructure development that inhibits economic growth.

In the Report to Congress by the Lower Mississippi Delta Development Commission, which was co-chaired by then-Governor Bill Clinton of Arkansas, the Commission stressed that the ten-year goal of any plan to assist the Delta should emphasize, and I quote from page 92 of this report, ''every Delta resident will have access to adequate water and sewer, fire protection, flood control, roads, streets, and bridges, to improve the quality of life and provide for economic growth and development.''

Although there are many very important needs in the Mississippi River Delta region which are unique to that area, better roads, educational enhancements, protection from floods, natural resource conservation and equipment and instruction support for workforce training ought to be the primary focus of this funding.

There are existing and proven delivery systems for these purpose which have the benefit of local planning and priority-setting by the people who reside in the Delta.

Is it the intent of this committee that this founding be utilized in this way for these purposes?

Mr. DOMENICI. Yes, Senator, In fact, it is the interest of the subcommittee to bring this federal support to the Mississippi River Delta region in the most timely and cost-efficient manner. It is my understanding that much like in your own State of Mississippi, the other six states have similar delivery systems in place through their local community colleges, universities, departments of transportation, and water resource agencies that should be used as the primary vehicles through which these funds are properly administered to provide the greatest regional impact.

Mr. COCHRAN. I appreciate the Chairman's response. Delta communities in my state have been unable to provide their local cost-share for rural water and sewer projects, road and railroad improvement projects, drainage and flood protection projects, and other developments that are fundamental to a viable, local economy because they simply cannot afford the match. Unlike more affluent areas which can take full advantage of the federal cost-sharing programs such as this, the Delta typically lags behind even further. Is it the Chairman's view that these funds could be used as a local match for other federal programs?

Mr. DOMENICI. I agree with your view that these funds could utilized for the type of infrastructure support you have described. If distressed communities in the Mississippi River Delta region are struggling to qualify for federal assistance due to their inability to provide the local match for infrastructure improvements, I think it should be one of the highest priorities for these funds to be applied in this way.

Mr. COCHRAN. I thank my friend from New Mexico and I appreciate your support for the use of this funding through existing delivery systems to provide needed assistance to the Delta.

FEDERAL POWER MARKETING ADMINISTRATIONS AND REGIONAL TRANSMISSION ORGANIZATIONS

Mr. CRAIG. Mr. President, I would like to engage in a colloquy with the Chairman of the Energy and Water Development Appropriations Subcommittee and the senior Senator from Washington to clarify the intent of legislative language in Section 319 of H.R. 4733.

Mr. DOMENICI. Mr. President, I would be pleased to discuss this provision with my friend, the Senator from Idaho.

Mr. GORTON. As would I, Mr. President.

Mr. CRAIG. Mr. President, one of the Power Marketing Administrations, the Bonneville Power Administration (BPA) is working with other transmission-owning electric utilities to file a document with the Federal Energy Regulatory Commission in October evidencing an intent to form a regional transmission organization in the Northwest. It is my understanding that this language would give BPA the authority to engage in the activities necessary to making that filing. Is that correct?

Mr. DOMENICI. Mr. President, the Senator from Idaho is correct.

Mr. GORTON. I concur, Mr. President.

Mr. CRAIG. It is also my understanding that the Department of Energy is currently of the opinion that no further legislation would be needed in order for BPA to actually participate in a Northwest regional transmission organization. However, issues may

arise as a result of the October filing, or otherwise, that would necessitate further legislation before BPA participates in the Northwest regional transmission organization. If such legislation is necessary, would the Chairman and the Senator from Washington be willing to work with me to enact it expeditiously, so as to not delay the actual operation of the Northwest regional transmission organization?

Mr. DOMENICI. I would be pleased to work with the Senator from Idaho, the Senator from Washington, and other members of the Northwest delegation to assure expeditious enactment of any such necessary legislation.

Mr. GORTON. I too, am committed to prompt enactment of such legislation, if needed. I think it is crucial that Congress facilitate, rather than impede or delay, the formation of a regional transmission organization for the Northwest.

Mr. CRAIG. I thank the Senators.

CHANNEL DEEPENING

Mr. SCHUMER. Mr. President, I have an amendment to the Fiscal Year 2001 Energy and Water Appropriations bill prepared on behalf of myself, Senator MOYNIHAN, Senator LAUTENBERG, and Senator TORRICELLI, that would dedicate $53 million and $5 million, respectively, for the Kill van Kull and Arthur Kill channel deepening projects in the Port of New York and New Jersey. These are the amounts that the President's Budget requests for the vital navigation projects. I will withhold from offering the amendment at this time.

I would just like to ask the Chairman and ranking Member, who are working hard to stay within their allocations, if they agree that the redevelopment of the Port of New York and New Jersey to accommodate modern container vessels is in the national interest. I would also like to inquire whether they will grant both of these projects priority consideration in the event that additional funds become available under the Army Corps accounts.

Mr. REID. I would agree with the Senator from New York that the authorized Federal navigation projects for the Port of New York and New Jersey are in the national interest, and that both the Kill van Kull and Arthur Kill projects should receive priority consideration if additional general construction funding for the Army Corps of Engineers becomes available.

IMPROVEMENTS ON THE MISSISSIPPI

Mr. GRAMS. Mr. President. I would like to engage the distinguished Chairman of the Subcommittee in a brief colloquy on an extremely important public safety project in St. Paul, Minnesota. As the Chairman may recall, I have been a strong proponent of $3,000,000 in Federal funding for the Mississippi Place project in downtown St. Paul. Not surprisingly, I am quite disappointed that the Committee was unable to accommodate requests to initiate work on recently authorized projects.

This project, authorized in the Water Resources Development Act of 1999, entails much needed improvements to the Mississippi River shoreline. For the past 100 years, this shoreline was virtually inaccessible to residents of St. Paul, cut off by a major parkway, industrial property and a main rail line. However, much has changed in the last five years, and the community now finds itself with an unprecedented opportunity to re-establish a physical connection to the Mississippi River. The industrial property has been converted into a new Science Museum and parkland, the parkway has been realigned and the rail lines have been regraded.

As envisioned by the Corps, the project will consist of a series of improvements to a section of river which contains some of the strongest currents on the Upper Mississippi. The need to initiate prompt work on the project led the Minnesota State Legislature to allocate $3,000,000 in state matching funds to the 2000 Bonding Bill signed by the Governor. An additional $3,000,000 in funding from local and other sources will be made available for parklands, trails and other amenities. All told, the community has pledged two thirds of the funding required for the project, far in excess of what is required by law.

But the most important work of all is the Corps portion along the shoreline, work which is critical to keeping the public (including 1.5 million annual visitors at the new Science Museum of Minnesota) away from the fast moving current. Without the funding I have requested from the Committee, this project will not be initiated.

Mr. President, could the distinguished Chairman provide me with his views on the upcoming conference with the House on this legislation, with particular emphasis on the funding which I am seeking for this project?

Mr. DOMENICI. Mr. President, I would be pleased to respond to the Senator's question. As my good friend pointed out, the funding allocation for the Energy and Water Subcommittee for fiscal year 2001 did not afford us the luxury of initiating new construction projects. However, I am aware of the Senator's strong support and interest in this project and, should the subcommittee receive sufficient additional budgetary resources, I will assure my colleague that the project outlined by the Senator would certainly be considered along with numerous other projects which have been brought to the subcommittee's attention.

OBJECTIONABLE PROVISIONS

Mr. MCCAIN. Mr. President, the energy and water appropriations bill is fundamental to our nation's energy and defense related activities, and takes care of vitally important water resources infrastructure needs. My colleagues are aware that I am a strong defender of our national security which is, in part, funded through this bill. Taking care of our national energy needs is also high in priority to our taxpaying constituents who are concerned about ever-increasing gas and energy prices.

That is why I am disappointed to report that this year's bill once again fails to fulfill our responsibility to American taxpayers to expend their tax dollars in a wise and prudent fashion that addresses the nation's most critical needs. Instead, included in this year's bill and its accompanying Senate report is $508 million in unrequested and low-priority earmarks. A number of legislative riders are also added which will effectively prevent a fair and deliberative consideration of certain issues that should be determined in a legislative review through the appropriate Congressional committees.

I recognize the hard work that the managers of this bill have put into moving this measure through the Senate. I thank them for their tireless efforts and appreciate that their jobs have not been easy. However, I must repeat a criticism I have made many times during consideration of appropriations bills and will continue to make as long as the practice of earmarking continues—this bill inappropriately singles out projects for funding based on criteria other than need and national priority.

This year, earmarks account for more than $508 million in funding for local projects contained in the bill and the committee report. Yet, we have no way of knowing whether, at best, all or part of this $508 million should have been spent on different projects with greater national need or, at worst, should not have been spent at all.

Various projects are provided with additional funding at levels higher than requested by the administration. The stated reasons include the desire to finish some projects in a reasonable time-frame. Unfortunately, other projects are put on hold or on a slower track. The inconsistency between the administration's request, which is responsible for carrying out these projects, and the views of the appropriators on just how much funding should be dedicated to a project, is troubling. As a result, various other projects that may be equally deserving or higher in priority do not receive an appropriate amount of funding, or none at all. Many of my objections are based on these types of inconsistencies and nebulous spending practices.

Our current system of earmarking in order to fund national projects is fundamentally flawed. I hope that we will soon develop a better system, one which allows the projects with the greatest national needs to be funded first.

I remind my colleagues that I object to these earmarks on the basis of their

circumvention of our established process, which is to properly consider, authorize and fund projects based on merit and need.

Although I was not present to vote on final passage of this bill, I wish to state for the record that I would have voted against this bill because this is not the honorable way to carry out our fiscal responsibilities.

I reviewed this bill and report very closely and compiled a list of objectionable provisions in H.R. 4733 and its accompanying Senate report. This list is too lengthy to be included in the RECORD, but it will be available from my Senate office.

RENEWABLE ENERGY

Ms. COLLINS. Mr. President, earlier this year I joined many of my colleagues in signing a letter supporting increased funding for renewable energy. I am pleased today to see that the subcommittee on Energy and Water Appropriations has honored our request with an $82 million increase in renewable energy funding, raising the total from $362 million to $444 million. That this substantial 23 percent increase occurred under severe budgetary pressures makes it all the more commendable. I thank Chairman DOMENICI and Senator REID for their efforts in producing this bill.

At no time has investment in renewable energy research and development been more important. As we have seen over and over again, even a slight imbalance between supply and demand can lead to rapidly escalating energy prices. Last winter, disruptions in oil supply caused great hardship to Mainers who depend on home heating oil. Mainers are also suffering at the pumps from gasoline and diesel prices that hit their highest levels in decades. People across the nation are further suffering from more and more frequent spikes in the price of natural gas and electricity.

Unless we act to diversify our energy supply, this volatility is only likely to grow worse. For example, United States currently imports slightly over half of its oil. In less than 20 years, this number is expected to grow to 70 percent. Unless we are content to live under the perpetual threat of energy disruptions from Middle East energy barons or other forces beyond our control, we must diversify our energy supply. While renewable energy will not provide the whole answer, it holds the potential to help stabilize energy prices and to provide us with an increased level of energy security. By investing in renewable energy research and development, we enhance fuel and technology diversity and help provide the United States with insulation from future energy shocks.

Investments in renewable energy have many other benefits as well. These investments increase the U.S. market share of the growing domestic and international markets for energy-supply products and permit the expansion of high technology jobs within the U.S. economy. Research in biomass and biofuels helps farmers and foresters by creating valuable new uses for agricultural products. Renewable energy has important military applications and is currently used on many remote military bases. The funds contained in this bill will also lead to improvements in distributed generation, energy storage, and reliability of the electric grid. Finally, renewable are bringing extra income to many farmers and local communities across the Nation.

My home State of Maine is a leader in renewable energy production and technology. In fact nearly 30 percent of our electricity comes from renewable energy generated in Maine. Central Maine Power is selling renewable energy from biomass to green markets in other states. And just next month, Endless Energy will be putting in a brand new wind turbine at a blueberry farm in Orland. This turbine was made possible in part by the renewable energy investments that I supported last year.

I again thank Senators DOMENICI and REID for providing the increase in renewable energy investments that I and many of my colleagues in the U.S. Senate had asked for. This is a down-payment on future energy diversity and a sound economy.

RED LAKE RIVER FLOOD CONTROL

Mr. GRAMS. Mr. President, I had intended to offer an amendment that would have provided $1 million in funding for the Red Lake River Flood Control Project at Crookston, Minnesota. This is a high priority of mine, and I regret the Committee's inability to fund new start construction projects. I understand there may be more flexibility to fund new starts in conference, and I want to continue to work with Chairman DOMENICI at that time to ensure funds are available to begin construction of this important project.

Communities in the Red River Valley in Northwestern Minnesota have suffered some of the worst flooding in our nation's history during 1997. Many Americans watched the television coverage of Grand Forks, North Dakota and saw the burning buildings which destroyed a city block, all in a sea of water. But just across the Red River, on the Minnesota side, is East Grand Forks, a town of nearly 10,000 people that had no water, no electricity, and no sewer system.

This disastrous flooding has severely disrupted the lives of many, many Minnesotans. Dreams of enjoying warm, spring weather after a brutally long Minnesota winter were replaced with efforts to ensure families and communities were safe, and that adequate food, water, and shelter was available.

Just 22 short miles east of East Grand Forks is the community of Crookston. Fortunately, through hard work and some luck, Crookston escaped major flooding in 1997. But Crookston's luck may not hold. The Red Lake River has flooded Crookston in the past, and without improved flood protection, it will flood the city again. The city has experienced severe flooding as a result of the topography of the land, as well as agriculture drainage, loss of wetlands, and the construction of county ditch systems. In fact, all of which have altered the flow of water adding to the risk of flooding. The threat to life and property in Crookston has increased since the 1950 flood when many homes were destroyed. The city has constructed levees between 1950 and 1965, but these levees are seriously deteriorating.

Mr. President, there is a plan for flood protection in Crookston. City planners have suggested a combination of channel cuts and dikes. The channel cuts would allow water to flow more quickly through town. The dikes would hold back flood water.

The city needs federal funding for this project. Already, the State of Minnesota has appropriated $3.3 million for Crookston for the dual purpose of providing funds to match the pending federal money, and to buy out homes in preparation for construction of the project. Local contributions, thus far, have exceeded $1.5 million, a third of which was used to meet the 50% federal requirement for the feasibility study, and the remainder is to be used as a part of the local match for the construction of the project that was authorized in the Water Resources Development Act of 1999. The cost benefit ratio for the project was determined in the Corps' feasibility study to be 1.6, far exceeding the federal requirement of a 1:1 cost benefit ratio for flood prevention projects.

It is my understanding that the city has met every requirement, cooperated with the Corps, and done everything asked of them to ensure the federal funding they expected after the authorization.

I want to commend the leadership of Mayor Don Osborne, members of the city council and city engineers in working on this important flood control project for their community. It is my hope that federal funding for this project be achieved so that work can begin to provide essential flood protection for the people of Crookston.

I urge the support of conferees for this amendment.

Thank you, Mr. President.

Mr. STEVENS. Mr. President, I am joined by my colleague from Alaska, Senator MURKOWSKI, in thanking the managers of this bill for accepting an amendment important to the residents of Kake, Alaska.

The city of Kake is a predominantly Tlingit Indian community of 850 located on Kupreanof Island in a remote section of southeast Alaska.

Since the recent collapse of the timber industry in southeast Alaska, Kake's economy has been almost entirely reliant on a local salmon hatchery and a seafood processing plant.

The city water was supplied by the Gunnuk Creek Dam, a wooden dam

built in 1946 by the Civilian Conservation Corps (CCC) at a cost of approximately $1.5 million.

In late July, after three days of severe storms dumped approximately 24 inches of rain, several logs swept across Kake's water reservoir and gouged an 18-foot by 12-foot hole in the 54 year old dam. The reservoir emptied and within minutes Kake's residents, hatchery, fish processing plant, general store, city offices, school, and fire department were without water. For the next 10 days, residents were forced to boil water before they could drink it. On August 10, the governor of Alaska issued a disaster declaration for Kake.

As an interim measure, small pumps have been installed in Gunnuk Creek to pump water to the filtration plant. Those pumps are highly susceptible to storms, and must be monitored 24 hours per day for debris and wear. The city purchased the small pumps with borrowed money, which must be repaid. Because of lack of water, the salmon hatchery has lost $2 million to date, primarily in loss of fish and egg harvests for next year's run. Also because of a lack of water, the cold storage plant—the major employer in Kake—laid off its 70 workers and has lost $500,000 in business.

Engineers from the Indian Health Service and a private consulting firm have declared the dam a total loss and estimate that $7 million is needed for a replacement.

The amendment included in this bill would provide the needed funding to replace the dam and I thank my colleagues for their support.

RIO GRANDE

Mr. DOMENICI. Mr. President, my amendment to strike the language in section 204 results from an agreement reached between myself and Interior Secretary Bruce Babbitt to delay implementation of a solicitor's opinion concerning the ownership of water facilities and related use of Rio Grande water, and to work toward a long-term solution to these water issues.

At issue is the relationship between ownership of water facilities and the desire to maintain flows in the Rio Grande.

Secretary Babbitt agreed to refrain from implementing a June 19 Solicitor's opinion, unless agreed to by the parties in litigation and the state engineer, or as permitted by court order.

I committed to work with him to achieve a long-term solution to these complicated water issues, and we agreed the current allocation, ownership and use of water in New Mexico have raised some issues of the greatest magnitude and at this time the most appropriate forum for their resolution is Federal court.

I have moved to strike this language based on the good faith of Secretary Babbitt, and I also note that he agreed to continue to resolve water issues related to the Fort Sumner Irrigation District (FSID) and the Pecos River, recognizing that the FSID and MRGCD facilities have different status.

However, based on our good faith discussions, I will continue to work with him on the Pecos issue, and expect that the Department will not take adverse action against that irrigation district in the meantime.

THE HARDING LAKE WATERSHED STUDY

Mr. STEVENS. Mr. President, I want to thank the managers of the bill for accepting the amendment on behalf of Senator MURKOWSKI and myself to help find a solution to the problem plaguing Harding Lake.

Harding Lake is the largest road accessible lake in the interior of Alaska. It holds significant recreation, fishery, natural resources and economic value for interior Alaska.

In a recent Fairbanks Daily News-Miner article, state officials closed Harding Lake to pike fishing due to dried up spawning grounds.

Harding Lake is suffering from a dramatic drop in water levels.

This drop in water level has impacted the shoreline—in some areas causing a recession of as much as 700 feet.

This loss of water could cause problems with water quality, land use, and fishery harvests.

Residents of Harding Lake, have asked for help in identifying the source of the water loss problem at the lake.

After discussions with the Corps of Engineers and officials at the soil and conservation district, it appears a watershed study and plan is needed to protect the lake from further degradation.

My amendment would provide the necessary funding to begin the watershed study and to develop a comprehensive plan to address the problem.

I thank the managers of the bill for their understanding and for accepting this provision.

Mr. STEVENS. Mr. President, Research into the molecular basis of disease using mouse models of human disease and a miniaturized version of PET (positron emission tomography) called MicroPET currently being conducted at the University of California Los Angeles School of Medicine's Division of Nuclear Medicine offers exciting new possibilities for development of treatments for human disease based on the molecular disorders that cause it.

Among the diseases for which mouse models have already been developed are breast, prostate, lung and colorectal cancers, Parkinson's disease and diabetes. New funding will allow for development of mouse models for lymphoma cancers and dementia/Alzheimer's disease and will allow development of extremely precise molecular diagnostics and molecular therapies.

Added funding will allow development for the next generation of MicroPET imaging technology.

The new technology will combine MicroPET, which measures the biological processes of a body, and MicroCT, which measures a body's anatomical structure into a single device for simultaneous and precise imaging of both biology and structure and will allow for the differential screening of biological, genetic and structural changes caused by disease in living mice.

This will allow researchers to see precisely the effect of new molecular, targeted treatments including gene therapies for a wide range of diseases using human disease genes inserted into mouse models.

Because the mouse models are developed using human disease genes, the added funding for these new technologies and procedures will lead to new means of treating and tracking human disease using clinical PET technology.

The research will lead to the ability to both diagnose disease and track the effect of targeted molecular/genetic therapies on a broad range of serious human diseases.

Mr. BINGAMAN. Mr. President, I would like to address briefly the issue of funding for the fundamental science and engineering research supported by the Department of Energy.

The DOE is the leading source of federal support for the physical sciences in the nation. Not many people know that, but it is true. DOE and its predecessor agencies developed this broad portfolio of physical sciences research in pursuit of the agency's statutory missions. To understand energy and its myriad transformations, you have to know a lot about the properties of matter, and of energy flows in matter, at a very fundamental level. In order to conserve energy by, for example, running industrial processes at higher temperatures that have greater thermodynamic efficiencies, you have to know a lot about basic materials science. These are research needs that other science agencies, such as the NSF, cannot meet within their missions and funding levels. It's an important reason why we have a Department of Energy, to begin with.

DOE is also a crucial supporter of scientific research in the life sciences. In the life sciences, the DOE initiated the Human Genome Program and comanges this enormously important and promising effort with the NIH.

DOE also plays a leading role in supporting other biological sciences, environmental sciences, mathematics, computing, and engineering. In all these areas, its basic research contributions relate to DOE's energy missions.

As a consequence of these research investments, the DOE is responsible for a significant portion of federal R&D funding to scientists and students at our colleges and universities.

In addition to the overall size of DOE's basic science funding, the type of activities that DOE funds has a special character among the federal science agencies. One of the primary responsibilities of DOE's Office of Science is to support large-scale specialized user facilities focussed on national scientific priorities. This particular mission makes the Office of

Science unique among, and complementary to, the scientific programs for other federal science agencies, including the NIH and NSF. Each year over 15,000 sponsored scientists and students from academe, industry, and government—many funded by agencies other than the DOE—conduct cutting-edge experiments at the Department's research facilities. Every State in the country has scientists and engineers with a stake in DOE's user facilities.

One of the challenges the Office of Science has faced during the past decade is that its funding has been reduced by approximately 13 percent in constant dollars. Other science agencies, such as NIH, have been growing strongly, while the DOE Office of Science has significantly less funding today, in constant dollars, than 10 years ago.

These reductions have prevented the Office of Science from fully participating in new initiatives in exciting technical areas important to DOE's statutory missions such as high performance computing and nanotechnology. More troublesome, the declining funding for the Office of Science has reduced the number of scientists and students able to conduct research suing DOE's national user facilities. In fact, DOE's national and university-based laboratories are currently operating well below their optimum levels, especially in light of growing demand from the scientific community.

DOE's scientific user communities and DOE's own scientific advisory committees have completed a number of reports over the past year to two to put a number on what DOE's science budget should look like, in order to fully take advantage of the scientific opportunities that are out there. They estimated that in FY 2001 alone a funding level of over $3.3 billion can easily be justified in order to support research and to fully utilize and modernize DOE facilities.

I am mindful that both the Chairman and the Ranking member of this appropriations subcommittee would like to make more money available for DOE's science programs. They have made statements yesterday that they will seek additional funds for the non-defense side of this bill as it moves forward. As they know, Senator FRANK MURKOWSKI, and I are circulating a letter in the Senate for signature by Senators to indicate their support for this goal. It's a letter that I hope strengthens their hand in getting a better allocation as we move forward. The letter is addressed to the bipartisan leadership of the Senate, and is already attracting strong bipartisan support.

I hope that when the Conference Report on this bill is finally written, the FY 2001 funding level for the DOE Office of Science will be no less than the President's request level of $3.16 billion. I hope that the funding level can be higher, in some areas, if at all possible. And I hope that both the President and Congress will provide significant increases in funding for the DOE Office of Science in future years in order to sustain the Office's steady growth. Such funding increases are merited by the important and unique work being conducted by the DOE Office of Science. The funding increases would also be consistent with the Senate's passage of a bill that both Senator DOMENICI and I were original cosponsors of the Federal Research Investment Act (S. 296) which calls for doubling investment in civilian research and development efforts.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), the Senator from California (Mrs. FEINSTEIN), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The result was announced—yeas 39, nays 1, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—93

Abraham	Fitzgerald	Mack
Allard	Frist	McConnell
Ashcroft	Gorton	Mikulski
Bayh	Graham	Miller
Bennett	Gramm	Moynihan
Biden	Grams	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Reed
Breaux	Hagel	Reid
Brownback	Harkin	Robb
Bryan	Hatch	Roberts
Bunning	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Hutchinson	Santorum
Campbell	Hutchison	Sarbanes
Chafee L.	Inhofe	Schumer
Cleland	Inouye	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Smith (NH)
Conrad	Kennedy	Smith (OR)
Craig	Kerrey	Snowe
Crapo	Kerry	Specter
Daschle	Kohl	Stevens
DeWine	Kyl	Thomas
Dodd	Landrieu	Thompson
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Torricelli
Durbin	Levin	Voinovich
Edwards	Lincoln	Warner
Enzi	Lott	Wellstone
Feingold	Lugar	Wyden

NAYS—1

Baucus

NOT VOTING—6

Akaka	Feinstein	McCain
Boxer	Lieberman	Murkowski

The bill (H.R. 4733), as amended, was passed.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate insists upon its amendments, requests a conference with the House, and the Chair appoints Mr. DOMENICI, Mr. COCHRAN, Mr. GORTON, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. CRAIG, Mr. STEVENS, Mr. REID, Mr. BYRD, Mr. HOLLINGS, Mrs. MURRAY, Mr. KOHL, Mr. DORGAN, and Mr. INOUYE conferees on the part of the Senate.

MORNING BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEROISM OF HERBERT A. LITTLETON

Mr. DASCHLE. Mr. President, today the citizens of South Dakota are honoring the heroism of Herbert A. Littleton, a 20-year-old Marine Corps private who died while performing acts of gallantry that earned him the Congressional Medal of Honor.

Private First Class Littleton enlisted in Black Hawk, South Dakota, and served as a radio operator during the Korean War with the U.S. Marine Corps Reserve, Company C, 1st Battalion, 7th Marines, 1st Marine Division (Reinforced). This is the same Marine division that turned the course of the Korean War with its successful landing behind enemy lines at Inchon, Korea, 50 years ago this month.

Seven months after the Inchon landing, Private First Class Littleton's unit was in Chungchon, Korea. On the night of April 22, 1951, Private Littleton, a radio operator with an artillery forward observation team, was standing watch. Suddenly Company C's position came under attack from a well concealed and numerically superior enemy force. Private First Class Littleton quickly alerted his team and moved into position to begin calling down artillery fire on the hostile force. But as his comrades arrived to assist, an enemy hand grenade was thrown into their midst. Private First Class Littleton unhesitatingly hurled himself on the grenade, absorbing its full, shattering impact with his own body and saving the other members of his team from serious injury or death.

Following Private First Class Littleton's heroic death, the President of the United States awarded him our nation's highest military award for bravery. The official citation says: ''His indomitable valor in the face of almost certain death reflects the highest credit upon Pfc. Littleton and the U.S. Naval Service. He gallantly gave his life for his country.''

Mr. President, today Governor Bill Janklow dedicated a granite memorial to Private First Class Littleton in

Spearfish, South Dakota, near the town where this young man signed up to serve his country. This is a dignified and fitting tribute. But there is another memorial to Private First Class Littleton on the other side of the Pacific Ocean, where a small, impoverished colony has blossomed into the Republic of Korea: a peaceful, democratic society that ranks as one of the great economic success stories of the 20th Century. His sacrifice helped make all this possible.

With this statement before the United States Senate, I join in saluting Private First Class Littleton. As we conduct the nation's affairs in this chamber of the United States Capitol, we would do well to remember Private First Class Littleton. In our every deed, let the members of this body bear in mind the lesson of courage, honor, and personal sacrifice offered to us by a 20-year-old man fighting for his country in the darkness, far from home.

FIRESTONE-FORD INVESTIGATION

Mr. SPECTER. Mr. President, I have sought recognition to deal with very serious problems disclosed in hearings yesterday in the Transportation Appropriations Subcommittee. The hearing involved 88 deaths that have resulted from Firestone tires shredding, and a great many Ford vehicles—mostly Ford Explorers—rolling over and resulting in those 88 deaths.

The hearing yesterday produced substantial evidence that ranking officials at Firestone and Ford knew about this problem, but subjected the owners of Ford Explorer vehicles riding on Firestone tires to the risk of death, which did eventuate for 88 people, and to very serious bodily injury formany more. These risks were foisted upon the American traveling public at a time when both Ford and Firestone knew what the problems were, at a time when, in October of 1998, customers in Venezuela had found the problem, and Ford and Firestone were alerted to it, with officials in Venezuela now talking about criminal prosecutions. In August of 1999, the Saudis had their tires replaced, so the people in Saudi Arabia were being protected while U.S. consumers were not being protected.

An internal Ford memorandum on March 12, 1999, considered whether Governmental officials in the United States ought to be notified, and a decision was made not to notify Federal officials. The matter then came into sharp focus in late July of this year, with the Ford executive witness testifying that Ford did not know about the problem in its full import until July 27 when Firestone turned over the information to Federal authorities. There was a representation by the Ford witness—which candidly strains credulity—and Firestone made representations that they did not find out about this problem until they had conducted some extraordinary tests—tests which obviously should have been conducted at a much earlier stage.

Yesterday, I questioned the Ford and Firestone officials on their willingness to turn over all of the records to the Transportation Appropriations Subcommittee, and they said they would; although, as I had said at the time, I thought there ought to be a subpoena issued which made it an obligation. Failure to perform would subject anybody who did not comply with the subpoena to charges of obstruction of justice. When cases of this sort have arisen in the past, there is a tremendous amount of experience that there is reluctance on the part of companies to turn over their documents, and they are found only after the most detailed and excruciating discovery in litigation. So this is a matter where the documents will be the best evidence as to who knew what, when that was known, and what action, if any, was taken.

The tragedy with the Firestone tires and the Ford Explorer rollovers is a matter that is going to have to be determined after very substantial investigation. The witnesses who testified yesterday were Joan Claybrook, President of the Public Citizen Organization, and R. David Pittle, Senior Vice President and Technical Director, Consumers Union. Both of them felt that criminal prosecutions were appropriate, perhaps rising to the level of second degree murder because of a willful disregard or reckless disregard of the safety of others, resulting in death, which is the legal equivalent of malice and which is the basis for a charge as serious as murder in the second degree.

Whether that is applicable to Firestone and Ford remains to be seen. However, we find a situation where the laws of the United States are inadequate to deal with this kind of situation. There is no legislation on the books which establishes a prosecution in these terms.

Back in 1966, the House of Representatives considered similar legislation. I have considered it for some time and have deferred introducing such legislation because it seemed to me that perhaps it was just a little harsh. But with the experience of Ford and Firestone, I do think it is appropriate for the Congress of the United States to consider such legislation.

That is why today I am introducing a bill which would establish criminal sanctions for any person who, in gross deviation from a reasonable standard of care, introduces into interstate commerce a product known by that person to be defective which causes the death or serious bodily injury of any individual, calling for penalties up to 15 years where the requisite malice is shown resulting in death, and up to 5 years where the requisite malice is shown for serious bodily injury.

This is a matter I have studied in considerable detail over many years, having represented defendants in personal injury cases—some plaintiffs in personal injury cases—but, more specifically, as district attorney of Philadelphia seeing the impact and the effect of criminal prosecutions and seeing to it that people pay attention.

When there are similar monetary awards, it costs the company and it costs the shareholders, but it doesn't do anything to the individuals who make these decisions. Before an individual could be held responsible under my proposed legislation, there would have to be a showing that the person knew there was a defect and that defect subjected a person to death or serious bodily injury.

That kind of knowledge and putting the instrumentality into commerce does constitute gross disregard for the safety or the life of another, which is the equivalent of malice and justifies this kind of a prosecution.

As I noted, this is a subject I have studied for some time. Although the Firestone-Ford issue came up only yesterday, the studies I have undertaken have shown me the desirability of this kind of legislation.

Last year, in Anderson v. General Motors Company, 1999 WL 1466627, a Los Angeles Superior Court jury ordered General Motors to pay a record $4.8 billion in punitive damages when six people were trapped and burned when their Chevrolet Malibu exploded after its fuel tank was ruptured in a rear-end crash. General Motors had made a calculation that it would cost in damages $2.40 per automobile if they left the defect in existence, but to correct and redesign the fuel system to reduce the fire cost would have been $8.59 a car. So that cost analysis did constitute actual malice.

That kind of an analysis was very similar to the punitive damages which were awarded in the famous case involving the Ford Pinto, which goes back to a 1981 decision in Grimshaw v. Ford Motor Company, 119 Cal. App. 3d 757, where an analysis was made that it would cost some $49.5 million to pay damages resulting from deaths and injuries contrasted with $137 million to pay for correcting the automobile.

In this particular case, the punitive damage award was $125 million, but it was subsequently reduced to $3.5 million, which frequently happens in punitive damage awards.

In a similar case, Ginny V. White and Jimmy D. White v. Ford Motor Company, CV–N–95–279–DWH (PHA), a 3-year-old child was crushed to death under the rear dual wheels of a Ford truck after it rolled suddenly down a grade. Here, Ford had known of the defect and knew how to correct it easily but did not do so. Punitive damages in that case were awarded at $150 million but have since been reduced to $69 million.

These cases are illustrative of the kind of headlines punitive damage awards make in the newspapers but how they are very frequently reduced. But again, the punitive damages do not really deal with the executives who make these decisions.

In the case of Fair v. Ford Motor Company, Civil Action 88–CI–101, 27

people were killed when a school bus in which they were riding burned after being struck by another vehicle. Punitive damages were upheld in this case where the facts showed that the fuel tank failure was preventable and that Ford had the capacity and the opportunity to prevent it and failed to do so.

In another similar case, Toyota Motor Company v. Moll, 438 So. 2d 192 (Fla. App. 1983), a Toyota Corona was struck in the rear, causing its fuel system to rupture and three women were burned to death. The court found malice on the part of Toyota because Toyota knew of the defective design of the fuel system and, in wanton disregard of the safety of the purchasing public, continued to market their 1973 Toyota Corona.

In Ford Motor Company v. Ammerman, 705 N.E. 2d 539 (Ind. App. 1999), the Court of Appeals for the Fifth Circuit of Indiana imposed punitive damages, finding malice on the part of Ford, when a Bronco slid sideways and rolled over causing very serious injuries, with the court saying:

''It is apparent to this court that Ford was motivated by profits rather than safety when it put into the stream of commerce a vehicle which it knew was dangerous and defective. Ignoring its own data and advice of its engineers, Ford manufactured a vehicle prone to roll-over accidents in spite of being aware that such accidents result in more serious injuries than any other.'' 705 N.E. 2d at 562.

There are similar findings in the famous breast implant case, Hopkins v. Dow Corning, 33 F.3d 1116 (9th Cir. 1994), where they knew that long studies of implants were needed before the product could be marketed but concealed the information.

Similarly, in the Dalkon Shield case, Tetuan v. A.H. Robins Co., 738 P.2d 1210 (Kan. 1987), thousands of women were presented with life-threatening and even fatal illnesses with the Kansas Supreme Court noting that the company deliberately and actively concealed the potential dangers of the product, thereby violating their duty to the public.

In the interest of time, I will summarize very briefly Batteast v. Wyeth Laboratories, Inc., 526 N.E. 2d 428 (Ill. App. 1 Dist. 1988), where punitive damages were awarded where drugs were given to individuals knowing of their dangerous propensity.

Similarly, in the case of Proctor v. Davis, 682 N.E. 2d 1203 (Ill. App. 1997), a patient had a retina detachment and blindness following the adverse effects of a drug which were known to the manufacturer but not disclosed.

In the brief time available this afternoon, I have summarized a series of cases which are only representative—where products have been put in interstate commerce, where there was knowledge on the part of individuals who put those products on the market that they would subject the individuals to risk of serious bodily injury or death, and, when death resulted, they were held liable, with the courts concluding that malice was established by the reckless disregard of the life of another.

When we have such a long sequence of cases, when we have the occasional imposition of punitive damages which are characteristically reduced and not really determinative or therapeutic anyway because it goes only after the shareholders as opposed to the individuals who have the ability to eliminate the problem, it is time there was adequate legislation on the Federal books to deal with this sort of problem.

I repeat, the culpability of Firestone or Ford has not yet been established, but it strains credulity that the key officials, based on what we heard yesterday in the hearing, did not know of these defects, and with the documents already at hand failed to take action to correct them. That is a matter to be determined.

But this legislation, if enacted, will certainly put the officials on notice that they cannot recklessly disregard human life for profits.

I yield the floor.

VICTIMS OF GUN VIOLENCE

Mr. KENNEDY. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read the names of some of those who have lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today. September 7, 1999: Ignacio Barba, 25, Oakland, CA; Ernest Bolton, 48, Dallas, TX; Steven Celestine, 5, Miami, FL; Fareed J. Chapman, 19, Chicago, IL; Selester Edward, 21, Louisville, KY; Samuel Girouard, 18, Bellingham, WA; Allen Howe, 32, New Orleans, LA; Robert Jenkins, 29, Charlotte, NC; Leo Kidd, 28, Detroit, MI; Alvin Marshall, 45, Pittsburgh, PA; Stacy Stewart, 28, St. Louis, MO; William Thornes, 23, Washington, DC; Darrly Towns, 15, Detroit, MI; Dao Vo, 19, Seattle, WA; Bathsheba Woodall, 23, Philadelphia, PA.

One of the gun violence victims I mentioned was only five years old. Steven Celestine, a little boy from Miami, was shot and killed one year ago today by his own father, as his mother tried to protect him in her arms during an argument between the parents.

We cannot sit back and allow such senseless gun violence to continue. The deaths of this small child and the others I named are a reminder to all of us that we need to enact sensible gun legislation now.

HIGH ENERGY COSTS

Mr. GRASSLEY. Mr. President, I don't know whether other colleagues of mine have spoken today on this issue, but I would be surprised if some have not. I have not had an opportunity to hear what anybody else has said. It is with some dismay that we are, once again, faced this year with very high energy costs. The headline that I have in front of me from the Washington Post for today says, ''Oil Prices Hit a Ten-Year High; As Americans Face Costly Winter, U.S. Pressures OPEC on Output.''

In that headline, several things are considered: First of all, we have the highest worldwide energy prices since the gulf war, and the war was responsible for the high oil prices at that particular time—not OPEC cutting back oil, not bad U.S. domestic energy policy. The other thing that hits us is that the consumer is going to end up paying for this. Both points highlight that this administration has been promising us an energy plan to deal with this crisis situation. Let me be clear on that—an energy plan not for the future but to deal with the immediate crisis.

I had an opportunity to write a letter to the administration earlier this summer asking them to put forth a plan to meet potential shortages of fuel oil, propane gas, and natural gas—all used in home heating—so the health of our seniors is not threatened when we get cold weather. I have not had a response to that letter. Nothing of substance has come from my request.

I had a chance during the month of July, when Senator LUGAR had a hearing before the Agriculture Committee with Secretary of Energy Richardson, to ask questions of Secretary Richardson, and put forth the necessity of his coming forward with just such a plan. Yet nothing has been forthcoming. I should say nothing but what the story in the Post reminds us of—that this Administration's energy policy seems to consist of either the President of the United States or the Energy Secretary getting down on hands and knees to OPEC countries—and they tend to emphasize dealing with the Arab nations on this issue—to please pump more oil, produce more oil, send more oil to the industrialized parts of the world, particularly the United States. That is all we are seeing at this point. That is all we saw last spring from this administration to get the price of energy down—begging the OPEC nations, and particularly the Arab oil-producing nations, to send more oil. That is their response to the crisis.

This prompts me to tell my colleagues what I hope I will be able to do tonight as we discuss the energy and water bill. Since I have not had a response to my request to the Energy Secretary when he was before the Senate Agriculture Committee, and since I have not had a response to my letter to the President, as well as a letter to the Energy Secretary, I will be offering an amendment that will ask the administration to get this plan that we have

been promised on the table. We need this plan so we can assure the consumers of America, particularly our more vulnerable consumers, the senior citizens, and particularly the most vulnerable senior citizens, those who are living alone, that we have a supply of energy for purchase at any cost. Hopefully the administration will come up with a plan that has a supply of energy that they can afford to pay for, and particularly a plan that doesn't require our senior citizens to choose between energy and food.

Also, I think it begs discussion of a bigger issue; that is, where has this administration been for the last 7 years on developing energy? For the most part, we have had a badly damaged oil exploration industry, and we have had workers who work in that industry finding jobs elsewhere. So even if that industry were to perk up and find places to drill and an incentive to drill, there are not enough workers to man the rigs because this administration has had a policy of deemphasizing domestic production.

So much of the land in the United States and our continental shelf, has been taken out of bounds for drilling, and in the case of natural gas, where two-thirds of the known supplies are available, there is no drilling where we know it is available under public lands.

I know of the concern for the environment. It seems to me we can have a balance between environmental policy and the domestic production of energy. We can have that because it is possible. We can have that because it is a necessity. It is a necessity because we cannot be held hostage by OPEC nations, and we can't be held hostage by Arab oil-producing nations and their leaders who want to put political pressure on the United States when it comes to a peace agreement involving Palestine and Israel, and all those issues that are acquainted with it.

We do not have to have military action in the Middle East now as we did at the time of the Persian Gulf war. But if we need to protect our oil, the flow of oil from the Middle East to the United States, we would not be able to put together that armada that we had 9 years ago to stop Saddam Hussein, what he was doing there, and what that caused in the energy situations in this country. That was the last time the energy prices went so high.

So we need from this administration a plan of what they are going to do to make sure there are not shortages in this country, what we can do to get the price down. We need that very soon. That is what my amendment will call for that I will offer this evening. We also need a policy of this administration to encourage the domestic production of oil and natural gas that we have available here so we aren't dependent upon OPEC for our sources of oil and natural gas.

I hope some of these issues will be discussed in the coming political campaign. I think on our side of the aisle, the Republican Party has a candidate who is well aware of the shortcomings of this administration on energy policy and will take steps, including fossil fuel availability, as well as renewable fuel availability to accomplish those goals.

While Governor Bush was campaigning in my State of Iowa during the first-in-the-nation caucuses that we had, I had the opportunity to travel throughout Iowa over the course of 4 or 5 days that I was helping him with his campaign. I had an opportunity to discuss some of these very tough issues and the direction that a new administration could take on renewable fuels such as ethanol, for example, renewable fuel incentives such as wind energy and biomass and tax incentives that are necessary for them to get rapidly started and a balance between renewable fuels and nonrenewable fuels.

I am satisfied that not only does the Governor of Texas come from a State where there is an understanding of the importance of fossil fuels—petroleum, natural gas, et cetera—but there is also an understanding that renewable sources of energy are very much an important part of the equation to make sure that the United States is not held hostage to OPEC nations as we see the President of the United States and the Energy Secretary begging OPEC to pump more oil.

I think with a new voice for energy independence in the White House, we will not have this very embarrassing situation that we find ourselves in, not just for the first time, but we found ourselves in this position in March, we found ourselves in this position in June when the leaders of this administration were hat in hand dealing with an OPEC organization controlling prices and controlling production, but if they were CEOs of oil companies in this country, doing the same sort of price fixing, they would be in prison.

What a spectacle of the President of the United States and the Energy Secretary dealing with these OPEC nations. That is an embarrassing situation. More important than just being embarrassing, it signals a national defense weakness of our country which must be based upon having certain access to energy. If we are going to be strong militarily, we won't have this embarrassment when a new face gets in the White House, if that new face is a person that is committed to the domestic production of energy and committed to renewable sources of energy, and committed to making a point with OPEC that we don't intend to be dependent upon these nations holding us up, particularly after the American taxpayer gave $415 million of foreign aid to OPEC nations for them to use to buy the rope to strangle the American consumer economically and hurt our whole economy in the process. That is exactly what OPEC is doing when the price of our energy, the price of our fuel oil, goes up 30 percent.

I hope we have a new day. I want to have a new day. I hope for a new day. A lot of that is what the people decide in the coming election.

I yield the floor.

SENIOR SAFETY ACT

Mr. LEAHY. Mr. President, I rise today to encourage passage of the Seniors Safety Act, legislation I introduced along with Senators DASCHLE, KENNEDY, and TORRICELLI in March 1999. Eight additional Senators have signed on as cosponsors since then. Despite this broad support, however, the majority has declined even to hold hearings on this bill to fight crime against America's senior citizens. As Grandparents' Day approaches this Sunday, and as this Congress comes to a close, I urge the majority to join with us in our efforts to improve the safety and security of older Americans.

During the 1990s, while overall crime rates dropped throughout the nation, the rate of crime against seniors remained constant. In addition to the increased vulnerability of some seniors to violent crime, older Americans are increasingly targeted by swindlers looking to take advantage of them through telemarketing schemes, pension fraud, and health care fraud. We must strengthen the hand of law enforcement to combat those criminals who plunder the savings that older Americans have worked their lifetimes to earn. The Seniors Safety Act tries to do exactly that, through a comprehensive package of proposals to establish new protections and increase penalties for a wide variety of crimes against seniors.

First, this bill provides additional protections to nursing home residents. Nursing homes provide an important service for our seniors—indeed, more than 40 percent of Americans turning 65 this year will need nursing home care at some point in their lives. Many nursing homes do a wonderful job with a very difficult task—this legislation simply looks to protect seniors and their families by isolating the bad providers in operation. It does this by giving Federal law enforcement the authority to investigate and prosecute operators of those nursing homes that engage in a pattern of health and safety violations. This authority is all the more important given the study prepared by the Department of Health and Human Services and reported this summer in the New York Times showing that 54 percent of American nursing homes fail to meet the Department's ''proposed minimum standard'' for patient care. The study also showed that 92 percent of nursing homes have less staff than necessary to provide optimal care.

Second, the Seniors Safety Act helps protect seniors from telemarketing fraud, which costs billions of dollars every year. My bill would give the Attorney General the authority to block or terminate telephone service where that service is being used to defraud seniors. If someone takes your money

at gunpoint, the law says we can take away their gun. If someone uses their phone to take away your money, the law should allow us to protect other victims by taking their phone away. In addition, my proposal would establish a Better Business Bureau-style clearinghouse that would keep track of complaints made about telemarketing companies. With a simple phone call, seniors could find out whether the company trying to sell to them over the phone or over the Internet has been the subject of complaints or been convicted of fraud.

Third, the Seniors Safety Act punishes pension fraud. Seniors who have worked hard for years should not have to worry that their hard-earned retirement savings will not be there when they need them. My bill would create new criminal and civil penalties for those who defraud pension plans, and increase the penalties for bribery and graft in connection with employee benefit plans.

Fourth and finally, the Seniors Safety Act strengthens law enforcement's ability to fight health care fraud. A recent study by the National Institute for Justice reports that many health care fraud schemes ''deliberately target vulnerable populations, such as the elderly or Alzheimer's patients, who are less willing or able to complain or alert law enforcement.'' This legislation gives law enforcement the additional investigatory tools it needs to uncover, investigate, and prosecute health care offense in both criminal and civil proceedings. It also protests whistle-blowers who alert law enforcement officers to examples of health care fraud.

This legislation is intended to focus attention on the particular criminal activities that victimize seniors the most. Congress should act on this bill now—when it comes to protecting our seniors, we have no time to waste. I am eager to work with the majority on this bill, and would be happy to consider any constructive improvements. Protecting seniors should be a bipartisan cause, and I want to pursue it in a bipartisan way. So I urge my colleagues on the other side of the aisle to look at this bill and work with us to improve the security of our seniors.

MISSILE DEFENSE

Mr. KYL. Mr. President, as you know, President Clinton recently announced that he would further delay deployment of a national missile defense system to protect the United States. Regrettably, although the President's decision was disappointing, it was not surprising given the track record of the Clinton-Gore administration. In fact, when one looks back over the past 8 years it is clear that this latest decision is merely the capstone to a string of poor decisions by this administration that have left us defenseless against a growing threat to America's security.

Time after time, the administration has taken steps to delay development of a system to defend against a missile threat that the Rumsfeld Commission, our intelligence agencies, and the Defense Department have said is increasingly serious. The administration has failed to pursue development of promising missile defense technologies, such as sea- and space-based defenses, has underfunded the limited programs it has authorized, and has pursued misguided arms control policies.

This week, Senator THAD COCHRAN released a report entitled ''Stubborn Things'' that chronicles the record of neglect by this administration toward missile defense. The report contains ten chapters, corresponding to each year over the past decade. Each chapter includes a chronological recitation of events relevant to ballistic missile defense, including the progression of the missile threat facing the United States, developments in arms control negotiations, as well as data on the level of funding devoted to these vital programs.

Senator COCHRAN named the report after a quote from John Adams, who said in 1770:

> Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence.

True to the spirit of John Adams' admonition, Senator COCHRAN'S report simply lays out fact after fact about what has transpired in the area of missile defense over the past decade. It is an excellent compilation of the events and decisions that have led us to our current situation.

For example, after the President announced that he would not authorize deployment of a national missile defense system, administration officials said the President had reached this decision in part because development of a booster for the ground-based system has lagged. But as Senator COCHRAN'S report points out, this is a legacy of one of his administration's first decisions after taking office. In February 1993, the administration returned unopened proposals by three teams of companies that had bid, at the request of the Defense Department, to develop a ground-based national missile defense interceptor.

The track record of the Clinton-Gore administration on missile defense is clear: they were slow to recognize the threat, failed to pursue the most promising forms of defense, underfunded the limited programs they half-heartedly pursued, and have failed to exercise leadership in addressing the concerns of our allies and other nations like Russia.

Senator COCHRAN and his able staff, Mitch Kugler, Dennis Ward, Dennis McDowell, Michael Loesch, Eric Desautels, Brad Sweet, and Julie Sander, are to be commended for producing this excellent report. By presenting the facts without rhetoric or spin they have significantly advanced the national debate on this important issue. I highly commend the report to my colleagues and to members of the public interested in this subject.

CELEBRATING CALIFORNIA'S DIVERSITY

Mrs. BOXER. Mr. President, this Saturday will mark the 150th anniversary of California's admission to the Union. As the people of our State prepare for this Sesquicentennial celebration, I want to celebrate California's most distinctive characteristic: its tremendous diversity.

California is ''a nation unto itself'' with great mountains and forests, vast deserts and fertile valleys, rolling hills and rugged coastlines. Within its borders can be found virtually every climate, every crop, every landform on earth.

But our greatest diversity—and our greatest asset—is the people of California.

California's diversity was apparent from the beginning. When the first Spanish pioneers crossed the Great Desert, they met Native Americans from more than 300 tribal and language groups. By the time Mexico and California gained independence from Spain, Alta California was home to many Europeans, Asians, and Pacific Islanders as well as Hispanics, North Americans, and Native Americans.

In 1849, when California held its constitutional convention, its 48 delegates included men from England, Scotland, Ireland, France, Switzerland, Mexico, and Spain. Thirteen of the delegates had been in California for less than a year; and William M. Gwin, who later became one of our first two U.S. Senators, had been here less than three months. Seven delegates had been born in California: their names were Vallejo, Carrillo, Pico, Dominguez, Rodriguez, Covarrubias, another Pico, and de la Guerra.

The Gold Rush brought new waves of pioneers from all over the globe. In their wake came workers from China, who built the great railroads, and Japanese farmers who fed the fortune hunters and made fortunes of their own.

During the Great Depression, thousands of internal immigrants fled the Dust Bowls of Texas and Oklahoma for greener pastures in California.

During World War II, thousands of African Americans migrated from the rural South to work in California's shipyards and other defense-related industries.

At the war's end, California had a wave of settlers from the U.S. Armed Forces: men and women who had shipped out of our beautiful ports and returned to stay when the war was over.

In recent years, new immigrants from Asia and Latin America have added to California's rich cultural mix, making our state the crossroads of the Pacific Rim and the new economy.

Today California's great diversity is reflected in our Congressional delegation, where our state is represented by people named BECERRA, and ROYBAL-ALLARD; FEINSTEIN, WAXMAN, and BERMAN; DIXON, WATERS, and LEE; PELOSI, GALLEGLY, and RADANOVICH; and FARR and MCKEON.

On Wednesday, September 13th, Representatives FARR and MCKEON will host a Sesquicentennial reception for Members of both Houses and both parties. I look forward to joining my California colleagues in celebrating our great state's proud history and bright future.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 6, 2000, the Federal debt stood at $5,681,881,776,256.37, five trillion, six hundred eighty-one billion, eight hundred eighty-one million, seven hundred seventy-six thousand, two hundred fifty-six dollars and thirty-seven cents.

Five years ago, September 6, 1995, the Federal debt stood at $4,969,749,000,000, four trillion, nine hundred sixty-nine billion, seven hundred forty-nine million.

Ten years ago, September 6, 1990, the Federal debt stood at $3,243,845,000,000, three trillion, two hundred forty-three billion, eight hundred forty-five million.

Fifteen years ago, September 6, 1985, the Federal debt stood at $1,823,101,000,000, one trillion, eight hundred twenty-three billion, one hundred one million, which reflects a debt increase of almost $4 trillion—$3,858,780,776,256.37, three trillion, eight hundred fifty-eight billion, seven hundred eighty million, seven hundred seventy-six thousand, two hundred fifty-six dollars and thirty-seven cents, during the past 15 years.

ADDITIONAL STATEMENTS

THE NEW ECONOMY

• Mr. HOLLINGS. Mr. President, Ken Lipper, the CEO of Lipper & Company investment firm, is a man of many talents. Ken is a novelist, a film producer and one of the most profound thinkers with respect to the new economy. In a February speech at the University of California Technology Conference, he outlined the strategies we must employ to address today's economic problems. Although he delivered the speech seven months ago, it is still valid. I ask that the text of the speech be printed in the RECORD.

The text of the speech follows.

REMARKS OF KEN LIPPER

As of February 2000, the United States is in the 107th month of an economic boom, the longest in history. Even as this economic expansion continues, observers have been amazed that inflation remains a low 2.5 percent. Ordinarily, at the stage of ''full employment'' we are now enjoying—unemployment is at 4 percent, and is projected at 3.8 percent for the year 2000, with nearly 90 percent capacity utilization—there would be serious labor shortages and rising prices. As a result, the Federal Reserve would intervene to raise interest rates and tighten the money supply, causing the expansion to fizzle.

Why is this boom different? Currently there is an excess world capacity in basic manufacturing of goods and commodities, due in part to the Asian collapse combined with high unemployment and relatively slow growth in Europe. More important is the unprecedented and uninterrupted level of U.S. capital investment. Productivity has been increasing at historically high levels, an average of 2.5 percent each year, so that with a 3.2 percent annual wage increase, there is a real standard of living increase for workers without significantly increasing unit labor costs.

In addition, the amount and efficiency of capital behind each worker has increased. For example, in 2000, manufacturers expect to increase revenues 7.7 percent with only a 0.5 percent increase in their labor force; nonmanufacturing sectors will increase revenues 6.9 percent with only a 1.4 percent labor force increase. These gains are possible thanks to a high level of investment in plant and equipment, which was up 21 percent in 1999 and is expected to rise another 15 percent in 2000. In non-manufacturing sectors, investment was up 4.7 percent in 1999 and expected to rise 8.7 percent in 2000. And this increased investment continues because a high consumer confidence level—now at an index of 144, compared to an average of 115—encourages corporations to expect growth in consumption.

Another factor keeping inflation low is heightened competition, both domestic and, thanks to free trade, foreign. The strong dollar magnifies the effect of this competition, translating into cheaper prices for imported goods. And buyers can also now compare prices by B–B commerce. As a result, 81 percent of manufacturers and 67 percent of nonmanufacturers report that they cannot pass along price increases to consumers. At the same time, low interest rates worldwide and the buoyant U.S. stock market have made for cheap capital availability, enabling the investments in productivity. The strong dollar and stock market have made up for the low U.S. savings rate—among the lowest in the world—by encouraging record levels of foreign investment, year in, year out.

Finally, the cost of investment capital has been held down because the U.S. government budget surplus takes the U.S. out of the bond market as an issuer competitive with businesses; indeed, the U.S. is now buying back old bonds and liquefying the market. U.S. and European municipalities are also borrowing much less worldwide. These trends force investment funds to be reallocated to the private sector, lowering the cost of capital.

These are the reasons why some people feel that the old economic paradigm the boom-to-bust cycle, is outmoded. But we have not repealed the business cycle; we have only added significant time to the boom equation. Ultimately, the laws of supply and demand will still have their impact.

The risks to our economy are apparent, and rising. The Asian economies are recovering. In Europe, unemployment is falling and the pace of economic growth is rising, while the Euro is beginning to take hold and compete for funds. This means that over time there could be no cheap imports to hold down inflation. These factors have expressed themselves already, in conjunction with rocketing U.S. consumption, huge oil price increases, an end to the decline in raw materials prices, and rising intermediate-product prices. And these pressures occur as a dwindling supply of new entrants to the U.S. labor force will begin to push up wages.

Aggregate U.S. profit margins decreased in 1999, because companies lacked pricing power. But as Asian and European economic recoveries absorb excess worldwide capacity, corporations will regain their pricing power to restore profit margins and pass on increasing costs.

The Federal Reserve is already intervening, and will continue to raise interest rates. Many have asked why these interventions are necessary when there is no current sign of rising inflation. One reason is that the Fed's actions generally take about 18 months to filter through the economy. But there are other justifications.

The first is labor. We have seen how labor has been able to get real standard of living increases without large wage increases, due to low inflation. But if labor anticipates inflation from the causes discussed above, it will build protective wage increases into multi-year settlements, in order to hedge its potential loss of buying power. This would accelerate the wage-price spiral that itself fuels further inflation. Thus the Federal Reserve is signaling labor of its determination to fight inflation.

Second, the Fed is also signaling Congress not to cut taxes or increase programs using the budget surplus, thus putting further pressure on available resources. The Fed's moves seem to indicate that it wants the national debt repaid and Social Security and Medicare funded.

Third, the Fed wants to dampen consumption due to the ''wealth effect,'' the stock market gains which are responsible for about 25 percent of the growth in U.S. GDP. Currently, over 50 percent of American households own stocks, with increasing numbers borrowing to carry them. People are spending based on presumed wealth from the stock market, a major difference from the time when consumption was directly linked to more predictable earned income.

Nobody knows how fast or how steep a fall in the stock market might be, given high debt levels, but consumption would certainly be affected. When the Japanese bubble burst, the stock market never recovered from its 50 percent loss, and no government program has succeeded in reviving the shocked Japanese consumer.

Fourth is the housing market. I expect housing starts to decline by 6 to 8 percent in the second half of 2000 due to rising mortgage rates, which will also affect existing housing prices. At a time of historically minuscule savings rates, how will the stock market investor and consumer react when both his storehouses of wealth—stock and homes—start to fall?

I expect that stock prices will recover during the first quarter and perhaps the first half of 2000, as profits reflect the high productivity investments already made and consumption continues unabated. But the risks touched on above will become increasingly evident, and the second half should begin to anticipate and express them in declining stock prices in the U.S. And the Federal Reserve will continue to increase interest rates.

Nobody can reliably predict when a stock boom will end. But this one seems to operate in an atmosphere of growing threat, and from lofty heights. NASDAQ has an unprecedented 178X multiple, which might be justified for a few companies but cannot be sustained for an aggregate, 4,700 entities. So how will it end?

Probably very suddenly, as other bubbles have burst; and they often take years to recover. On May 4, 1990, Christie's Evening

Auction failed to attract bids; art prices tumbled 50 percent and the market evaporated. The price of gold reached a peak of 665 in September 1980; in January 1981 it was at 505; in March 1982 it had fallen to 320. The stock market plunged from a peak of 2650 in October 1987 to 1770 two months later. In Japan, the stockmarket collapsed from a peak of 39,000 in December 1989 to 21,000 in September 1990. And Russia defaulted on $2.5 billion of debt in August 1998, just two months after borrowing it.

What does this mean as a practical matter? Anyone who anticipates needing refinancing should do it sooner rather than later. Those who wish to liquidate some of their concentrated stock holdings should act now, to protect their future lifestyles. Corporate strategies that are based on a fast burn rate of cash, and that plan to get new money to reliquefy, should modify these plans to slow the burn rate in case refinancing is not easily available. And those who need refinancing should cultivate venture capital sources in Europe, where economic growth and an appetite for U.S. venture opportunities should provide a fertile alternative to a more subdued U.S. market.

Now I would like to turn from these dry ruminations on the economy to more value-oriented thoughts on building a business, based on my personal experiences as an entrepreneur. Creating an enterprise for nothing should be a reflection of your own values, fears, experiences, intellectual insights, and sense of what is important—becasue you, as the entrepreneur, must feel comfortable with running it. There is no single formula, but certain observations might prove applicable to your own situation.

Professor Bhide wrote in Harvard Business Review: ''Several principles are basic for successful start-ups: get operational fast * * * [and] don't try to hire the crack team. * * *'' These precepts are not supported by my own experience. The professor's recommendations place a huge premium on the exclusivity and value of an idea, and the notion that others could beat you out if you delay. These beliefs are responsible for a large number of helter-skelter business-launches-as-preemptive-strikes, premature introductions that fail due to poor product quality, weak delivery systems, inadequate customer support, or inadequate internal financial controls.

Every shoe-shine man will freely share his ideas with you. However, what counts is the implementation of an idea by a quality team of people. My products were carefully crafted and tested over two years, altered and risk-adjusted through examining results. A crack team was put together, with the first hire being Salomon's top accountant—because I wanted to know the limits of my dream before I acted beyond my resources, capacity, or risk profile.

Simply to the point: was it Prodigy's innovations, or Lotus's being first in the market, that won the software battle? Or was it Microsoft's better preparation for meeting and servicing customers' needs that won the day? You generally have one shot at the marketplace. And credibility depends on predictability. Make sure everything is carefully prepared in depth, no matter how long it takes, so that the product and its supports work as promised. Getting started is not the goal; permanency is!

Building many products and applications can be exciting in concept, but it is difficult in terms of financial and physical resources. I build my products narrowly and very deeply, so that we could equal any competitor in a specialty area. Editing out the many other opportunities is vital for concentrating resources and talent on the very few things that you can do best. Choose your product, refine it, and continuously monitor it based on experience. I chose specialty products that did not require muscularity of distribution, capital, and related support inputs, all of which favor existing large corporations. By developing a few intellectually rich products at the beginning, we weren't forced to compete head-on with the big boys, and therefore we could get profit margins and cash flow that provided fuel for further expansion.

I believe that many Internet retailers go into commodity-oriented businesses in which price is the key determinant, only to find that success means bigger losses and that old, dominant players can enter internet distribution at will and grab market share. Time is the most precious capital, so a business should only enter growing markets with a superior service or product, where decent profit margins are available over a long period of time.

It was my experience that becoming a brand name quickly is extraordinarily difficult. It requires a long period of exposure and in-depth, sustained advertising. Few newcomers have the necessary financial staying-power, so avoid spending money on ineffectual ads. If your business strategy requires you to promote the product enormously, then maybe it is the wrong product choice. Remember that it is easier for GM or Toys R Us to learn how to use the Internet than for you to gain their brand images. And, conversely, once the speculative fever recedes, why would anyone pay 9 times earnings for Macy's and 1,000 times revenues for a wannabe whose aspiration is to maybe become the Macy's of the Web?

It is also important not to gild the lily technologically. Think of the customer's technical competence and how he will actually use your product. My biggest recent error was listening to a tech analyst who told me not to buy AOL at $26 a pre-split share, because there were technically superior products. The mix between technology and user friendliness is vital. After all, do you use Betamax or VHS?

In building a business, it is crucial to put emphasis on becoming an institution. I found that it takes two years for a person to feel comfortable in a corporate culture, so it is better to build a team in anticipation of growth than in response to it. Invest early and heavily in support systems, in the areas of client service, electronic information, and financial controls. Let everyone know what is expected of him or her through clear communication, so that employees are moving in the direction of corporate goals. My company has never been star-oriented, in a star-studded industry. Good organization creates a whole that is more than the sum of its parts.

Relationships are key to success, and that means knowing the people in your arena. Biotech executives should know the important people in the FDA, the universities, and the pharmaceutical companies. And relationships should be maintained for the long term. Remember, credibility equals predictability; long relationships allow people to judge you based on past interactions. It's too late if you only meet people when you need them.

Personnel turnover is a significant problem today. The mantra everywhere is stock options, the chance to get rich quick. This leads to high turnover if a company has actual or perceived problems, or, on the other hand, if it is too successful and young people get rich quick. In my company, which is family owned, we have low turnover. We build loyalty in three important ways. First, all employees share in profits; we have a flatter compensation scheme than many technology companies. Second, there is justice in allocating rewards over long periods of time. Our people know that we have permanency; we give them a long-term horizon, with expectation of growing rewards over time.

Third, our people feel safe. There are no politics, few layoffs, and no acting out; people check their egos at the door. We breed loyalty through civility. People are trained and moved around the company to keep the interest level high, and promotions are made internally. The culture is kept strong by outsourcing and a small number of hires. And finally, there is a single decision-maker; everyone has input, but I make the final decision based on careful research and many individual inputs. There is no ranting or screaming by anyone; instead, there is a free flow of ideas, tentative acceptance, and thorough investigations, so that all communication moves back and forth.

A great business idea, or a great scientific idea, does not just come about through hard work and incremental advances. It is more like poetry. It is about having the imagination and heart to strike out on a path that others didn't dare to follow, or didn't see in its entirety. Implementation, management skills, and the ability to anticipate customer needs are built on a knowledge of how human beings react. These types of imagination and understanding are more likely to come from wellness than from frenzy. I don't subscribe to the continuous-all-nighters, no-personal-life recipe for success. For a super-successful entrepreneur, having broad horizon—through reading fiction and biography, appreciating art, and interacting socially with a variety of people—is more important than working yet another Sunday.

But there is more at stake than business success. You want to be a happy person, a good father, a community builder. I find that I can only eat one tuna-fish sandwich at lunch, no matter how many millions I have earned. Money can give you time, and how you spend that time is key. And wise expenditure of personal time on human development can also help you make money, because knowledge, experience, and wisdom are usually the key to the ''poetic'' business idea.

Young people are leaving college to make quick money, like a gold rush. But life is about more than money or success or technical achievement. It is critical that people see the world in vibrant colors and in multiple shades. To raise children, face the death of parents, appreciate beauty, even make love well, people need emotional and intellectual depth. These come from being exposed to the collective experience of civilization, which is transmitted through books and a liberal education.

In the scheme of your success, it will not make a difference if you leave school two years early; but it could alter your life greatly. Absorb the intangibles, not just because they will give you the imagination to come up with ''poetic'' business ideas to help you deal with customers, but also because they will give meaning to the life you lead, whether you succeed materially or not. After all, living life well, in all its dimensions, is what it's all about.●

IN APPRECIATION OF GENERAL TERRENCE DAKE'S SERVICE

● Mr. BOND. Mr. President, it is my great honor to rise today to pay tribute to a fellow Missourian who has served our Nation honorably for more then three decades in war and peace. In October, General Terrence Dake, Assistant Commandant of the Marine Corps,

will retire after more then 34 years of service as a Marine.

A native of Rocky Comfort in the Missouri Ozarks, General Dake earned undergraduate degrees from the College of the Ozarks and the University of Arkansas. From there he proceeded to Marine Corps Officer Candidate School in Quantico, VA. He was commissioned a Second Lieutenant upon graduation from OCS in October 1966. With the echoes of conflict in South East Asia sounding here at home, Second Lieutenant Dake reported directly to aviator training in Pensacola, Florida. He received his wings designating him a Naval Aviator on the 25th of January, 1968. He was tested in combat when he reported to South East Asia and piloted CH–53A Sea Stallion helicopters in Vietnam. Lieutenant Dake earned numerous awards while accumulating over 6,000 flight hours in military aircraft. Highlights of his extensive aviation experience include service as the President's helicopter pilot and as the Commanding Officer of Marine Helicopter Squadron One.

General Dake's distinguished career has been accompanied with a rise through the ranks, including service as the Director of Training and Doctrine with the Commander-in-Chief of the U.S. Atlantic Command and as Assistant Chief of Staff of Operations for the 3rd Marine Aircraft Wing during Operation Desert Shield/Storm. It is significant to note that this was the largest aircraft wing ever fielded in combat by the Marine Corps.

General Dake was promoted to Brigadier General in March, 1992. His assignments as a General Officer included service as Assistant Deputy Chief of Staff of Aviation; Inspector General of the Marine Corps; Deputy Commanding General, Marine Corps Combat Development Command; Commanding General, 3rd Marine Aircraft Wing; and Deputy Chief of Staff for Aviation. During his time as Deputy Chief of Staff for Aviation the Marine Corps embarked on its historic aviation campaign plan which has manifested itself in the development of the V–22 Osprey and the Joint Strike Fighter.

General Dake assumed his present position as the Assistant Commandant of the Marine Corps on September 5, 1998. For his service as the Assistant Commandant, General Dake was awarded the Distinguished Service Medal. General Dake also earned the ''Silver Hawk Award.'' Presented by the Marine Corps Aviation Association, the Silver Hawk Award is given to the active-duty Marine Aviator with the most senior date of designation.

Not all of General Dake's achievements took place in aircraft or in command of major units. General Dake's commitment to his troops was evidenced in his efforts in tackling two of the most difficult issues facing the Department of Defense today: health care and readiness. As a member of the Defense Medical and Senior Readiness Oversight Committees, General Dake worked to improve readiness and ensure that the entire military family—active, reserve, and retiree—were provided quality health care.

Any tribute to General Dake would be inadequate without recognizing the contributions of his wife and family. As with so many of our fine members of the Armed Services, his career would not be what it is today were it not for their steadfast support throughout the years. Mrs. Dake is a recipient of the Distinguished Public Service Award, presented for her superior public service in support of uniformed personnel and their families. As we pay tribute to him today we also commend and honor her for her commitment and perseverance on behalf of Marines ''in every place and clime.''

I also recognize the other members of General Dake's family. The Dakes have two children, a daughter, Jana, and son, Joshua. Jana is married to Captain Ken Karika, USMC, and is the mother of the Dake's grandchild, Jack. They too have taken part in the sacrifice required to be a military family and deserve our gratitude.

The Marine Corps often states that there are no ex-Marines, only Marines who are no longer actively serving. It is comforting to know that General Dake will continue to serve our nation and set an example for others to follow long into the future.

As General and Mrs. Dake move from the active duty community to the retired community, it is appropriate that this body stop and honor a man and his family who made countless sacrifices for duty, honor, country.●

IN MEMORY OF MONSIGNOR HENRY J. DZIADOSZ

● Mr. DODD. Mr. President, I rise today to pay tribute to the late Monsignor Henry J. Dziadosz, J.C.D., a beloved friend and respected clergyman. Monsignor Henry was a priest for fifty-one years, including twenty-nine years as pastor at St. Bridget of Kildare Parish, my home church in Moodus, Connecticut. He made numerous sacrifices for his community and strove throughout his clerical live to instill a spirit of caring in the lives of his parishioners. At Monsignor Henry's retirement party several years ago, he stated, ''When I first came here, I told them that the family spirit was my goal. No one should have to cry alone and no one should ever laugh alone. In all the accomplishments, it is the creation of this spirit that I am most proud of.'' Everyone who know this remarkable man would agree that his devotion to his parishioners has made a lasting impact on the lives he has touched.

Monsignor Henry was destined to the priesthood from his early years. He attended St. Stanislaus School as a young boy, graduated from Meriden High School, and enrolled in the St. Thomas Seminary, where he earned his associate's degree in philosophy. He continued his theological studies at Catholic University of America in Washington, D.C., and was awarded the Basselin Scholarship. On May 26, 1949, then Father-Henry was ordained to the Priesthood in St. Joseph Cathedral in Hartford and accepted an assignment as Assistant Pastor of the St. Joseph Parish in Norwich. Father Henry then moved to New London's Our Lady of Perpetual Help Parish before returning to continue his studies at the Catholic University of America. It was his profoundly inquisitive nature and genuine thirst for knowledge that caused Father Henry to pursue a doctoral degree in 1955. He earned his degree in Canon Law, and was subsequently assigned to the Diocesan Chancery in Norwich, where he served as assistant to the chief judge of the Diocesan Tribunal and as the assistant chancellor. Always a bright student and quick study, Father Henry was soon appointed Officialis, or Chief Judge, of the tribunal, and administrator of St. John's Mission in Fitchville. Father's Henry energy, compassion and achievement drew notice from the highest levels of the Church and in 1965 Pope Paul VI named him a prelate of honor and awarded him the title of Monsignor.

Monsignor Henry first arrived at St. Bridget in 1969, and dedicated the next twenty-nine years of his life to the service of the parish. St. Bridget's landscape bears witness to the many tangible accomplishments Monsignor Henry has achieved, including the Lady of Lourdes Grotto, the Religious Education Center, the Bicentennial Pavilion, the Stained Glass Doors, the Skylights, the beautification of the church grounds, and numerous other improvements. In honor of his dedication and commitment to St. Bridget, the education center, which he was instrumental in founding, will henceforth be called the Monsignor Henry J. Dziadosz Religious Education Center.

At the Parish Mass for Monsignor Henry, Father Marek Masnicki described a priest's duties, and expressed how Monsignor Henry was the epitome of what every priest strives to be. ''A priest is called to respond to the poor and the broken and in this he touches the face of Jesus Christ. We expect a great deal from our priests, and priests expect a great deal from themselves. The priest makes sacrifices on behalf of the community. He offers his humanity and that of the community to Christ until he comes again. Priests take their cue from Jesus Christ each day. All this can apply to the fifty-one years of the priestly ministry of Monsignor Dziadosz.''

Monsignor Henry was my pastor for a number of years. And while he was an accomplished man, a man whose priestly accomplishments were recognized by the Pope, it was his compassion and humanity that made him a truly remarkable shepherd for his flock, a flock of which I feel deeply fortunate to have been a part.

There isn't a doctorate for ministering day in and day out to the spiritual needs of a community. There isn't

a grand award for caring deeply about one's neighbors. But you will find that we often have a name for people who conduct themselves in these ways: priest, rabbi, sheik or monk. These people dedicate themselves to the service of God, and in doing so provide an example for the rest of us to follow. Monsignor Henry was a wonderful priest and he took joy in the simple daily rituals of that life. He was dearly loved by the people of his parish and he will be deeply missed.●

RECOGNITION OF LANNY FRATTARE FOR HIS 25 YEARS OF SERVICE TO THE PITTSBURGH PIRATES

● Mr. SANTORUM. Mr. President, I would like to take a few minutes of Senate business to recognize a man who I hold in the highest regard, Mr. Lanny Frattare. Mr. Frattare has been a tremendous figure and icon to the people of Pittsburgh, Pennsylvania. He has contributed energy and timeless hours to the Pittsburgh community through his involvement with the Pirates, the Parent and Child Guidance Center, the Cystic Fibrosis Foundation, Goodwill Industries, and Bob Prince Charities.

Lanny Frattare is celebrating his twenty-fifth year as ''The Voice of the Pirates,'' announcing more than 3,500 games. Only Bob Prince has described the action of Pirate baseball longer, 28 years. Mr. Frattare was even gracious enough to let me join him in the announcer's box for several games over the years, which was definitely one of my greatest thrills as a Pittsburgher.

A native of Rochester, New York, Frattare received has bachelor's degree in communications from Ithaca College in 1970. His baseball broadcasting career began in 1968 with the Geneva Senators, a Class A team in New York. Frattare's association with the Pirates organization began in 1974 and 1975 when he broadcast games for the Triple-A West Virginia team, the Charleston Charlies. He was also a radio DJ and Sports Director at WBBF in Rochester before joining the Pirates in 1976.

''There was no doubt about it''—Lanny Frattare continues to make significant impact on his listeners and on the history of the Pittsburgh Pirates. I feel privileged to know him and see the contributions he's made to the Pittsburgh community.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2302. An act to designate the building of the United States Postal Service located at 307 Main Street in Johnson City, New York, as the ''James W. McCabe, Sr. Post Office Building.''

H.R. 3454. An act to designate the United States Post Office located at 451 College Street in Macon, Georgia, as the ''Henry McNeal Turner Post Office.''

H.R. 4448. An act to designate the facility of the United States Postal Service located at 3500 Dolfield Avenue in Baltimore, Maryland, as the ''Judge Robert Bernard Watts, Sr. Post Office Building.''

H.R. 4449. An act to designate the facility of the United States Postal Service located at 1908 North Ellamont Street in Baltimore, Maryland, as the ''Dr. Flossie McClain Dedmond Post Office Building.''

H.R. 4484. An act to designate the facility of the United States Postal Service located at 500 North Washington Street in Rockville, Maryland, as the ''Everett Alvarez, Jr. Post Office Building.''

H.R. 4534. An act to redesignate the facility of the United States Postal Services located at 114 Ridge Street, N.W. in Lenoir, North Carolina, as the ''James T. Broyhill Post Office Building.''

H.R. 4615. An act to redesignate the facility of the United States Postal Service located at 3030 Meredith Avenue in Omaha, Nebraska, as the ''Reverend J.C. Wade Post Office.''

H.R. 4884. An act to redesignate the facility of the United States Postal Service located at 200 West 2nd Street in Royal Oak, Michigan, as the ''William S. Broomfield Post Office Building.''

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2302. An act to designate the building of the United States Postal Service located at 307 Main Street in Johnson City, New York, as the ''James W. McCabe, Sr. Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3454. An act to designate the United States post office located at 451 College Street in Macon, Georgia, as the ''Henry McNeal Turner Post Office''; to the Committee on Governmental Affairs.

H.R. 4448. An act to designate the facility of the United States Postal Service located at 3500 Dolfield Avenue in Baltimore, Maryland, as the ''Judge Robert Bernard Watts, Sr. Post Office Building''; to the Committee on Governmental Affairs.

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H.R. 4615. An act to redesignate the facility of the United States Postal Service located at 3030 Meredith Avenue in Omaha, Nebraska, as the ''Reverend J.C. Wade Post Office''; to the Committee on Governmental Affairs.

H.R. 4884. An act to redesignate the facility of the United States Postal Service located at 200 West 2nd Street in Royal Oak, Michigan, as the ''William S. Broomfield Post Office Building''; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–10580. A communication from the Congressional Budget Office, transmitting, pursuant to law, the Sequestration Update Report for Fiscal Year 2001; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on Agriculture, Nutrition, and Forestry; Armed Services; Banking, Housing, and Urban Affairs; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Governmental Affairs; Health, Education, Labor, and Pensions; the Judiciary; Small Business; Veterans' Affairs; Indian Affairs; Intelligence; Appropriations; and the Budget.

EC–10581. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to recessions and deferrals; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on Appropriations; the Budget; Armed Services; Banking, Housing, and Urban Affairs; Energy and Natural Resources; Environment and Public Works; and Foreign Relations.

EC–10582. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the notification of the President's intent to exempt all military personnel accounts from sequester for fiscal year 2001, if a sequester is necessary; referred jointly, pursuant to the order of January 30, 1075 as modified by the order of April 11, 1986, to the Committees on Appropriations; the Budget; and Armed Services.

EC–10583. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals; referred jointly, pursuant to the order of January 30, 1075 as modified by the order of April 11, 1986, to the Committees on Appropriations; the Budget; Banking, Housing, and Urban Affairs; Energy and Natural Resources; and Foreign Relations.

EC–10584. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous

United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands'' (RIN1018–AG08) received on August 29, 2000; to the Committee on Environment and Public Works.

EC–10585. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2000–01 Early Season'' (RIN1018–AG08) received on August 29, 2000; to the Committee on Environment and Public Works.

EC–10586. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of five rules entitled ''Approval and Promulgation of Implementation Plans; New Jersey; Nitrogen Oxides Budget and Allowance Trading Program'' (FRL #6860–1), ''Approval and Promulgation of Implementation Plans; Control of Air Pollution from Volatile Organic Compounds, Transfer Operations, Loading and Unloading of Volatile Organic Compounds'' (FRL #6862–5), ''Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Maryland, Control of Emissions from Existing Hospital/Medical/Infectious Waste Incinerators'' (FRL #6862–4), ''Use of Alternative Analytical Test Methods in the Reformulated Gasoline Program'' (FRL #6855–8) received on August 29, 2000; to the Committee on Environment and Public Works.

EC–10587. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules entitled ''Considering Ecological Processes in Environmental Impact Assessment'' and ''EPA Guidance for Consideration of Environmental Justice in Clean Air Act Section 309 Review'' received on August 29, 2000; to the Committee on Environment and Public Works.

EC–10588. A communication from the Acting Assistant Secretary for Fish and Wildlife Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Approval of tungsten-matrix shot as nontoxic for hunting waterfowl and coots'' (RIN1018–AG22) received on August 31, 2000; to the Committee on Environment and Public Works.

EC–10589. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report on four items; to the Committee on Environment and Public Works.

EC–10590. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules entitled ''National Emission Standards for Halogenated Solvent Cleansing'' (FRL #6866–3) and ''Request for Statement of Qualifications (RFQ) for Administrative, Technical and Scientific Support to the Chesapeake Bay Program; Fiscal Years 2001–2006'' received on September 5, 2000; to the Committee on Environment and Public Works.

EC–10591. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of three rules entitled ''Establishment of Alternative Compliance Periods under the Anti-Dumping Program'' (FRL #6864–8), ''Hazardous Air Pollutants: Amendments to the Approval of State Programs and Delegation of Federal Authorities'' (FRL #6864–6), and ''Revisions to the California State Implementation Plan, Sacramento Metropolitant Air Quality Management District'' (FRL #6853–7) received on August 31, 2000; to the Committee on Environment and Public Works.

EC–10592. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for one Steelhead Evolutionarily Significant Unit (ESU) in California'' (RIN1018–AN58) received on August 31, 2000; to the Committee on Environment and Public Works.

EC–10593. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Import/Export User Fees'' (Docket #97–058–2) received on August 29, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10594. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Plum Pox'' (Docket #00–034–2) received on August 30, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10595. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Citrus Canker; Addition to Quarantines Areas'' (Docket #00–036–1) received on August 30, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10596. A communication from the Administrator of the Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Food Stamp Program: Electronic Benefit Transfer (EBT) Systems Interoperability and Portability'' (RIN0584–AC91) received on August 30, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10597. A communication from the Acting Executive Director of the Commodity Futures Trading Commission, transmitting pursuant to law, the report of a rule entitled ''Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers: Amendments to the Provisions Governing Subordination Agreements Included in the Net Capital of a Futures Commission Merchant or Independent Introducing Broker'' (RIN3038–AB54) received on August 30, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10598. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Pink Bollworm Regulated Areas'' (Docket #00–009–2) received on September 5, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10599. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to religious freedom; to the Committee on Foreign Relations.

EC–10600. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–10601. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to juvenile justice and delinquency prevention; to the Committee on the Judiciary.

EC–10602. A communication from the Acting General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Size Standards; Arrangement of Transportation of Freight and Cargo'' (RIN3245–AE27) received on August 30, 2000; to the Committee on Small Business.

EC–10603. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, a report on the operation of the United States trade agreements program, calendar year 1999; to the Committee on Finance.

EC–10604. A communication from the President of the United States, transmitting, pursuant to law, the intent to add Nigeria to the list of beneficiary developing countries under the Generalized System of Preferences; to the Committee on Finance.

EC–10605. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Continuity of Interest'' (RIN1545–AV81) received on August 30, 2000; to the Committee on Finance.

EC–10606. A communication from the Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, transmitting, pursuant to law, the report of a rule entitled ''Delegation of Authority (99R–282P)'' (RIN1512–AC01) received on August 30, 2000; to the Committee on Finance.

EC–10607. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Comprehensive Case Resolution Pilot Notice'' (Notice 2000–53, 2000–38 I.R.B.) received on August 31, 2000; to the Committee on Finance.

EC–10608. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified Lessee Construction Allowances for Short-Term Leases'' (RIN1545–AW16) received on September 5, 2000; to the Committee on Finance.

EC–10609. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Facsimile Transmission of Prescriptions for Patients Enrolled in Hospice Programs'' (RIN1117–AA54) received on July 24, 2000; to the Committee on the Judiciary.

EC–10610. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Kentucky Regulatory Program'' (RINKY–226–FOR) received on August 31, 2000; to the Committee on Energy and Natural Resources.

EC–10611. A communication from the Assistant Director, Communications, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Supplementary Rules on Public Land in Utah within Grand Staircase Escalante National Monument and at associated facilities'' (RIN1004–AD40) received on August 31, 2000; to the Committee on Energy and Natural Resources.

EC–10612. A communication from the Director of the Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Control of Communicable Diseases; Apprehension and Detention of Persons With Specific Diseases; Transfer of Regulations'' received on August 30, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–10613. A communication from the General Counsel of the Corporation for National Community Service, transmitting, pursuant to law, the report of a rule entitled ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving

Federal Financial Assistance'' received on September 5, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–10614. A communication from the Acting Assistant General Counsel for Regulations, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Competitive Preference for Fiscal Year 2001 for the Rehabilitation Long-Term Training and Rehabilitation Continuing Education Programs'' (RIN89.129L and 84.264B) received on August 29, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–10615. A communication from the Deputy Secretary of the Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Rule 12f–2 under the Securities Exchange Act of 1934, 17 CFR 240.12f–2, ''Extending Unlisted Trading Privileges to a Security that is the Subject of an Initial Public Offering'' received on August 30, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–10616. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance'' (RIN2501–AC42 (FR–4301–F–02)) received on August 30, 2000; to the Committee on Banking, Housing, and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–613. A resolution adopted by the Council of the Borough of Surf City relative to the dumping of dredged material; to the Committee on Environment and Public Works.

POM–614. A resolution adopted by the Township of Manchester, New Jersey relative to the ''Mud Dump Site''; to the Committee on Environment and Public Works.

POM–615. A resolution adopted by the City Council of Portsmouth, Ohio relative to the Uranium Enrichment Plant; to the Committee on Energy and Natural Resources.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. BYRD, for Mr. WARNER, from the Committee on Armed Services:

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Charles R. Holland, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Glen W. Moorhead III, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Norton A. Schwartz, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Daniel J. Petrosky, 0000

The following named officer for appointment as The Surgeon General, United States Army, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 3036:

To be lieutenant general

Maj. Gen. James B. Peake, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601, and as a Senior Member of the Military Staff Committee:

To be lieutenant general

Maj. Gen. John P. Abizaid, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward G. Anderson III, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Bryan D. Brown, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. William P. Tangney, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Walter F. Doran, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael P. Delong, 0000

By Mr. INHOFE, for Mr. WARNER, from the Committee on Armed Services:

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Peter Pace, 0000

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. INHOFE:

S. 3013. To make technical amendments concerning contracts affecting certain Indian tribes in Oklahoma, and for other purposes; to the Committee on Indian Affairs.

By Mr. SPECTER:

S. 3014. A bill to amend title 18 of the US Code to penalize the knowing and reckless introduction of a defective product into interstate commerce; to the Committee on the Judiciary.

By Mr. ASHCROFT:

S. 3015. A bill to grant the consent of Congress to the Kansas and Missouri Metropolitan Culture District Compact; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. JEFFORDS, Mr. GRAMM, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. NICKLES, Mr. LOTT, Mr. STEVENS, Mr. FRIST, Mr. DOMENICI, Mr. CRAIG, and Mr. GRAMS):

S. 3016. To amend the Social Security Act to establish an outpatient prescription drug assistance program for low-income medicare beneficiaries and medicare beneficiaries with high drug costs; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. STEVENS, and Mr. FRIST):

S. 3017. A bill to amend the Social Security Act to establish an outpatient prescription drug assistance program for low-income medicare beneficiaries and medicare beneficiaries with high drug costs; to the Committee on Finance.

By Mr. TORRICELLI (for himself and Mr. JOHNSON):

S. 3018. A bill to amend the Federal Deposit Insurance Act with respect to municipal deposits; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INHOFE:

S. 3019. A bill to clarify the Federal relationship to the Shawnee Tribe as a distinct Indian tribe, to clarify the status of the members of the Shawnee Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. GRAMS (for himself, Mr. BAUCUS, Mr. INHOFE, Mr. GREGG, and Mrs. HUTCHISON):

S. 3020. A bill to require the Federal Communications Commission to revise its regulations authorizing the operation of new, low-power FM radio stations; to the Committee on Commerce, Science, and Transportation.

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. DODD, and Mrs. FEINSTEIN):

S. 3021. A bill to provide that a certification of the cooperation of Mexico with United States counterdrug efforts not be required in fiscal year 2001 for the limitation on assistance for Mexico under section 490 of the Foreign Assistance Act of 1961 not to go into effect in that fiscal year.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HUTCHINSON:

S. Res. 349. A resolution to designate September 7, 2000 as ''National Safe Television for All-Ages Day''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. INHOFE:

S. 3013. To make technical amendments concerning contracts affecting certain Indian tribes in Oklahoma, and for other purposes; to the Committee on Indian Affairs.

LEGISLATION CONCERNING CONTRACTS AFFECTING CERTAIN INDIAN TRIBES IN OKLAHOMA

Mr. INHOFE. Mr. President, today I am pleased to introduce legislation which will remedy a long outdated statute which impedes economic development for the Five Civilized Tribes of Oklahoma. For years tribes have been required to seek approval by the Secretary of the Interior before they may engage in contracts. Section 81, as it is known, provides that a contract 'relating to Indian lands' is not valid unless it is approved by the Secretary. This statute was enacted with good intentions but unfortunately has outgrown its usefulness. Today this provision constitutes a confusing legal obstacle for tribal development.

Early last year, Senator BEN NIGHTHORSE CAMPBELL introduced comprehensive legislation to address the current problems associated with this statute. That legislation has passed the Senate and now awaits action before the House. However, the Five Tribes have often been treated with separate statutes unique to eastern Oklahoma. The legislation I propose simply corrects a technical oversight which affects only the Five Civilized Tribes of Oklahoma which is commonly referred to as Section 82a. Without this correction, the Five Civilized Tribes of Oklahoma would be the only tribes in the nation which may still be required to seek Secretarial approval for these contracts. I urge my colleagues to join me in correcting this oversight.

Mr. ASHCROFT:

S. 3015. A bill to grant the consent of Congress to the Kansas and Missouri Metropolitan Culture District Compact; to the Committee on the Judiciary.

THE KANSAS AND MISSOURI METROPOLITAN CULTURAL DISTRICT COMPACT ACT OF 2000

Mr. ASHCROFT. Mr. President, today I rise to introduce a bill to grant the consent of Congress to the Kansas and Missouri Metropolitan Cultural District Compact.

This bill would allow the people in 2002, or after, to consider additional projects which contribute or enhance the aesthetic, artistic, historical, intellectual of social development or appreciation of members of the general public. This definition has been expanded to include sports facilities. This compact has made the restoration of Kansas City's Union Station possible.

The original enabling legislation, which passed in 1994 established a bi-state cultural district for the Kansas City metropolitan area of five counties in Western Missouri and Eastern Kansas. This provides a secure source of local funding for metropolitan cooperation across state lines to restore historic structures and cultural facilities. The Federal authority for this bi-state compact expires at the end of 2001. We must see to it that a new compact is approved to continue this successful venture.

Mr. President, this legislation does not cost the Federal government any money. It is funded through a ⅛ sales tax, passed by the voters of Jackson, Johnson, Clay and Platte counties, and merely needs Federal approval. This measure is a perfect example of the appropriate relationship between the Federal government and the states. This approval would allow these local communities to make decisions on how—and whether—their tax dollars are to be spent on cultural activities.

This bill has bipartisan support in the House of Representatives. The companion legislation, HR 4700, passed the House Judiciary Committee by voice vote and the full House also by voice vote. It is supported by the Greater Kansas City Chamber of Commerce, the Mid-American Regional Council, the Overland Park Chamber of Commerce, Kansas City Area Development Council, Johnson County President's Council, Labor-Management Council of Greater Kansas City, Jackson County Executive, Kansas Governor Bill Graves, and Missouri Governor Mel Carnahan.

Mr. ROTH (for himself, Mr. JEFFORDS, Mr. GRAMM, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. NICKLES, Mr. LOTT, Mr. STEVENS, Mr. FRIST, Mr. DOMENICI, Mr. CRAIG, and Mr. GRAMS):

MEDICARE TEMPORARY DRUG ASSISTANCE ACT

Mr. ROTH. Mr. President, for the past two years, the Finance Committee has been working on comprehensive Medicare reform—reform intended both to modernize the Medicare benefit package, which would include the creation of an outpatient prescription drug benefit, and to protect the long-term solvency of the program. The Committee has held 15 hearings on many different aspects of Medicare reform. We have listened to testimony from scores of witnesses.

And we appreciate how important, but also how complex an undertaking Medicare reform is, as what we do will affect 40 million Americans who rely on the program.

Working closely with colleagues on both sides of the aisle, this July I introduced an ambitious Medicare plan that took the best ideas from Republicans and Democrats—a plan that would achieve the modern reforms we all seek. I am committed to adding a comprehensive prescription drug benefit to the Medicare program, coupled with other major reforms that are badly needed.

The plan that I have been working on includes not only comprehensive drug coverage added to the basic Medicare benefit package, but improvements to hospital and other benefits, low-income beneficiary protections, access to medical technologies, private sector drug benefit management, improvements to Medicare's long-term solvency and a strengthened Medicare+Choice Program.

I have been working for several months to refine my bill and to get the finalized estimates from the Congressional Budget Office that are necessary to advance any major piece of legislation in the Congress. These steps are also essential to make sure that the program is kept affordable for beneficiaries and taxpayers alike. I intend shortly to share the latest information with my colleagues on the Finance Committee.

It is my intention to continue to work aggressively with my colleagues on the Finance Committee—as well as with all members of this body—to build on my initiative introduced in July and to move ahead with successful bipartisan reform. I appreciate the strong interest and support our agenda for reform is receiving from both sides of the aisle.

However, there are real reasons why we don't yet have agreement on Medicare. Program reform efforts are enormously complex. In no small part because Medicare is such an important part of our social fabric. We must work through extraordinarily diverse views on the proper role of government, how best to achieve affordability for beneficiaries and taxpayers—all while ensuring stability and continuity in the program.

In view of the fact that at this time there is no clear consensus on comprehensive reform, and that even if there were, such reform would take two or three years to implement, I am today introducing legislation that will help us see that low-income beneficiaries are not denied prescription drug coverage while we continue to move forward with long-term reform.

I call this legislation the Medicare Temporary Drug Assistance Act, and it actually includes two versions—one that meets current budget guidelines and will only require a simple majority for passage, and a second version that is larger, covers more beneficiaries, but exceeds budget guidelines and will thus require a sixty-vote majority.

I call this initiative the Medicare Temporary Drug Assistance Act, because that's exactly what it is. This effort is not to be mistaken with the lasting, comprehensive Medicare reform that we will continue to aggressively pursue—a reform effort that will build on our more comprehensive plan offered in July. What this temporary legislation offers is an assurance to low-income seniors that they will be able to receive the help they need while Congress completes the larger task of overhauling the Medicare program.

It's an assurance that their immediate needs will not be put on hold as we deliberate and debate the complex intricacies of long-term Medicare reform.

In testimony before our committee, the AARP repeatedly reminded us how

important it is that we proceed carefully with long-term reform. AARP also told our Committee that a program aiding low-income beneficiaries could be achieved in a shorter time frame. I agree with their assessment and support the goal of providing immediate help to low-income beneficiaries.

And this is what my legislation will do—it allows us to continue the intricate work of long-term reform without forcing Americans to dilute their prescription dosages or to choose between prescription drugs and food.

It is my hope—as I believe there is sufficient bipartisan consensus on the subject of prescription drug coverage—that we can come together to pass this legislation. Like I've said, the first version of this bill requires only a simple majority. It has been designed to fit within current budget restrictions.

Having my preference, Mr. President, I would like to see us pass the broader version that will require sixty votes, as it will offer more extensive coverage. But either way, these bills—once enacted—will implement a temporary, state-based, program to provide low-income Medicare beneficiaries with prescription drug coverage outside the Medicare program.

Now, Mr. President, let me clear up a couple of misunderstandings that appear to surround this. First of all, I have heard concerns raised that this legislation depends on the appropriations process for funding. This is wrong; they do not. Just like the State Children Health Insurance Program, funding is mandatory under the Social Security Act.

Second, I know that some have tried to attach a welfare stigma to the new program. Let me be clear: prescription drug coverage is not welfare, it is common sense. Frankly, I am surprised that there are those who would imply otherwise, because for years, we have worked to de-stigmatize important programs such as Medicaid and the State Children's Health Insurance Program.

The legislation I'm introducing is modeled on the State Children's Health Insurance Program—a solution designed to extend drug coverage to lower-income Medicare beneficiaries—beneficiaries with incomes below 150 percent of the poverty, and those with the highest out-of-pocket drug costs. If we have sufficient support to pass the more generous measure, we can cover beneficiaries up to 175 percent of the poverty level.

State participation in the new program would be optional, as it is under SCHIP. According to the National Conference of State Legislatures, 22 states have passed some type of pharmacy assistance law. Senior Pharmacy Assistance Programs currently are in place in 16 states, and another five states have passed laws to create such programs. Many of these states will likely opt to immediately participate in the new program—receiving federal funds to allow them to quickly expand their programs to provide drug benefits to even more Medicare beneficiaries.

Eligible beneficiaries living in states that choose not to participate in the new program would receive coverage through a fall-back option administered by the Health Care Financing Administration. HCFA would contract with a pharmacy benefit manager to provide these beneficiaries with a drug benefit comparable to that offered to all Federal employees through the Blue Cross Standard Option plan.

Under either scenario, beneficiaries will receive immediate assistance. They will not have to wait, they will not have to wonder, and most importantly they will not have to worry about what happens in Washington.

Again, Mr. President, this effort is not to be mistaken with the lasting, comprehensive Medicare reform that we must continue to pursue. It is best seen as a bridge—a bridge that will provide a low-income Medicare beneficiaries with prescription drugs—a bridge that the Washington Post acknowledged just today would be of material value to lower-income individuals while we continue our work on long-term, bipartisan reform.

I will continue to work in the Finance Committee toward long-term Medicare reform—reform which will include a comprehensive outpatient prescription drug benefit. If we can't pass such a package this year, we will resume our efforts on the first day of the next session, and we will not stop until we get the job done. But low-income Medicare beneficiaries should not have to wait for comprehensive reform to be enacted in order to receive prescription drug benefits.

This legislation will provide prescription drug coverage and peace of mind while Congress continues to work on the larger reform package. Passing it will certainly not obviate the need, nor diminish the pressing objective that we will have to achieve Medicare reform. There is no argument on either side of the aisle that long-term reform is not necessary. But in the interim, we should also take this step.

Then when we get the long-term reform initiative passed—when comprehensive reform is enacted—this interim step will automatically be repealed. In that way, it will not replace or compete with reform. But it will provide valuable protection for many. Full enactment of this legislation will ensure that 82 percent of all Medicare beneficiaries will have prescription drug coverage, through the new program and through other sources of coverage. If Congress votes for increased coverage, 85 percent of all Medicare beneficiaries would have prescription drug coverage.

Mr. President, I urge my colleagues to join me on this important issue. Our many successes in advancing the Medicare program these last three years have been achieved through cooperation from both sides of the aisle. We have seen what we can do when we move forward on those issues where we have a consensus. Now, let's join together to take this step, as well. Let's implement a principle on which I believe we all agree—helping our neediest Medicare beneficiaries pay for their prescription drugs. Toward achieving this important objective, there is no legitimate reason to delay.

Mr. President, I ask unanimous consent that the bill I am introducing be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Temporary Drug Assistance Act''.

SEC. 2. OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new title:

''TITLE XXII—OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PROGRAM

''SEC. 2201. PURPOSE; OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLANS.

''(a) PURPOSE.—The purpose of this title is to provide funds to States to enable States, individually or in a group, to establish a program, separate from the medicaid program under title XIX, to provide assistance to low-income medicare beneficiaries (as defined in section 2202(b)) and, at State option, medicare beneficiaries with high drug costs (as defined in section 2202(c)) to obtain coverage for outpatient prescription drugs.

''(b) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLAN REQUIRED.—A State may not receive payments under section 2205 unless the State, individually or as part of a group of States, submits in writing to the Secretary an outpatient prescription drug assistance plan under section 2206(a)(1) that—

''(1) describes how the State or group of States intends to use the funds provided under this title to provide outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs consistent with the provisions of this title;

''(2) includes a description of the budget for the plan (updated periodically as necessary) and details on the planned use of funds, the sources of the non-Federal share of plan expenditures, and any requirements for cost-sharing by beneficiaries;

''(3) describes the procedures to be used to ensure that the outpatient prescription drug assistance provided to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs under the plan does not supplant coverage for outpatient prescription drugs available to such beneficiaries under group health plans; and

''(4) has been approved by the Secretary under section 2206(a)(2).

''(c) ENTITLEMENT.—Subject to subsection (d)(2), this title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States, groups of States, and contractors described in section 2209(a)(2)(A), of amounts provided under section 2204.

''(d) PERIOD OF APPLICABILITY.—

''(1) IN GENERAL.—No State, group of States, or contractor described in section 2209(a)(2)(A), may receive payments under

section 2205 for outpatient prescription drug assistance provided for periods beginning before October 1, 2000, or after December 31, 2003.

''(2) MEDICARE REFORM.—If medicare reform legislation that includes coverage for outpatient prescription drugs is enacted during the period that begins on October 1, 2000, and ends on December 31, 2003, this title shall be repealed upon the effective date of such legislation, and no State, group of States, or contractor described in section 2209(a)(2)(A) shall be entitled to receive payments for any outpatient prescription drug assistance provided on or after such date.

''SEC. 2202. BENEFICIARY ELIGIBILITY.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—In order for a State (individually or as part of a group of States) to receive payments under section 2205 with respect to an outpatient prescription drug assistance program, the program must provide, subject to the availability of funds, outpatient prescription drug assistance to each individual who—

''(A) resides in the State;

''(B) applies for such assistance; and

''(C) establishes that the individual is—

''(i) a low-income medicare beneficiary (as defined in subsection (b)); or

''(ii) at the option of the State, a medicare beneficiary with high drug costs (as defined in subsection (c)).

''(2) RESIDENCY RULES.—In applying paragraph (1), residency rules similar to the residency rules applicable to the State plan under title XIX shall apply.

''(b) LOW-INCOME MEDICARE BENEFICIARY DEFINED.—

''(1) IN GENERAL.—In this title, except as provided in section 2209(a)(2)(B), the term 'low-income medicare beneficiary' means an individual who—

''(A) is entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title;

''(B) subject to subsection (d), is not entitled to medical assistance with respect to prescribed drugs under title XIX or under a waiver under section 1115 of the requirements of such title;

''(C) is determined to have family income that does not exceed a percentage of the poverty line for a family of the size involved specified by the State that, subject to paragraph (2), may not exceed 150 percent; and

''(D) at the option of the State, is determined to have resources that do not exceed a level specified by the State.

''(2) STATE-ONLY DRUG ASSISTANCE PROGRAMS.—In the case of a State that has a State-based drug assistance program described in section 2203(e) that provides outpatient prescription drug coverage for individuals described in paragraph (1)(A) who have family income up to or exceeding 150 percent of the poverty line, the State may specify a percentage of the poverty line under paragraph (1)(C) that exceeds the income eligibility level specified by the State for such program but does not exceed 50 percentage points above such income eligibility level.

''(c) MEDICARE BENEFICIARY WITH HIGH DRUG COSTS DEFINED.—

''(1) IN GENERAL.—In this title, except as provided in section 2209(a)(2)(C), the term 'medicare beneficiary with high drug costs' means an individual—

''(A) who satisfies the requirements of subparagraphs (A) and (B) of subsection (b)(1);

''(B) whose family income exceeds the percentage of the poverty line specified by the State in accordance with subsection (b)(1)(C);

''(C) at the option of the State, whose resources exceed a level (if any) specified by the State in accordance with subsection (b)(1)(D); and

''(D) who has out-of-pocket expenses for outpatient prescription drugs and biologicals (including insulin and insulin supplies) for which outpatient prescription drug assistance is available under this title that exceed such amount as the State specifies in accordance with paragraph (2).

''(2) DETERMINATION OF OUT-OF-POCKET EXPENSES.—A State that elects to provide outpatient prescription drug assistance to an individual described in paragraph (1) shall provide the Secretary with the methodology and standards used to determine the individual's eligibility under subparagraph (D) of such paragraph.

''(d) ACCESS FOR MEDICAID EXPANSION STATES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, with respect to any State that, as of the date of enactment of this title, has made outpatient prescription drug coverage for individuals described in paragraph (2) available through the State medicaid program under title XIX under a section 1115 waiver, the Secretary, in consultation with such State, shall establish procedures under which the State shall be able to receive payments from the allotment made available under section 2204 for such State for a fiscal year for purposes of offsetting the costs of making such coverage available to such individuals.

''(2) INDIVIDUALS DESCRIBED.—Individuals described in this paragraph are individuals who are—

''(A) entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title; and

''(B) eligible for outpatient prescription drug coverage only, under a State medicaid program under title XIX as a result of a section 1115 waiver.

''(e) INDIVIDUAL NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to outpatient prescription drug assistance provided under this title.

''SEC. 2203. COVERAGE REQUIREMENTS.

''(a) REQUIRED SCOPE OF COVERAGE.—

''(1) IN GENERAL.—The outpatient prescription drug assistance provided under the plan may consist of any of the following:

''(A) BENCHMARK COVERAGE.—Outpatient prescription drug coverage that is equivalent to the outpatient prescription drug coverage in a benchmark benefit package described in subsection (b).

''(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—Outpatient prescription drug coverage that has an aggregate actuarial value that is at least equivalent to one of the benchmark benefit packages.

''(C) EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—Outpatient prescription drug coverage under an existing State-based program, described in subsection (e).

''(D) SECRETARY-APPROVED COVERAGE.—Any other outpatient prescription drug coverage that the Secretary determines, upon application by a State or group of States, provides appropriate outpatient prescription drug coverage for the population of medicare beneficiaries proposed to be provided such coverage.

''(2) CONSISTENT DESIGN.—A State or group of States may only select one of the options described in paragraph (1) (and, if the State or group chooses to provide outpatient prescription drug coverage that is equivalent to the outpatient prescription drug coverage in a benchmark benefit package, only one of the benchmark benefit package options described in subsection (b)) in order to provide outpatient prescription drug assistance in a uniform manner for the population of medicare beneficiaries provided such coverage.

''(b) BENCHMARK BENEFIT PACKAGES.—The benchmark benefit packages are as follows:

''(1) MEDICAID OUTPATIENT PRESCRIPTION DRUG COVERAGE.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under the State medicaid plan under title XIX; or

''(B) a group of States, the outpatient prescription drug coverage provided under the State medicaid plan under such title of one of the States in the group, as identified in the outpatient prescription drug assistance plan.

''(2) FEHBP-EQUIVALENT OUTPATIENT PRESCRIPTION DRUG COVERAGE.—The outpatient prescription drug coverage provided under the Standard Option Blue Cross and Blue Shield Service Benefit Plan described in and offered under section 8903(1) of title 5, United States Code.

''(3) STATE EMPLOYEE OUTPATIENT PRESCRIPTION DRUG COVERAGE.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under a health benefits coverage plan that is offered and generally available to State employees in the State involved; or

''(B) a group of States, the outpatient prescription drug coverage provided under a health benefits coverage plan that is offered and generally available to State employees in one of the States in the group, as identified in the outpatient prescription drug assistance plan.

''(4) OUTPATIENT PRESCRIPTION DRUG COVERAGE OFFERED THROUGH LARGEST HMO.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under a health insurance coverage plan that is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act) and has the largest insured commercial, nonmedicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved; or

''(B) a group of States, the outpatient prescription drug coverage provided under a health insurance coverage plan that is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act) and has the largest insured commercial, nonmedicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in one of the States involved.

''(c) DETERMINATION OF ACTUARIAL VALUE OF COVERAGE.—

''(1) IN GENERAL.—The actuarial value of outpatient prescription drug coverage offered under benchmark benefit packages and the outpatient prescription drug assistance plan shall be set forth in an opinion in a report that has been prepared—

''(A) by an individual who is a member of the American Academy of Actuaries;

''(B) using generally accepted actuarial principles and methodologies;

''(C) using a standardized set of utilization and price factors;

''(D) using a standardized population that is representative of the population to be covered under the outpatient prescription drug assistance plan;

''(E) applying the same principles and factors in comparing the value of different coverage;

''(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

''(G) taking into account the ability of a State or group of States to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under the outpatient prescription drug assistance plan that results from the limitations on cost-sharing under such coverage.

''(2) REQUIREMENT.—The actuary preparing the opinion shall select and specify in the report the standardized set and population to be used under subparagraphs (C) and (D) of paragraph (1).

''(d) PROHIBITED COVERAGE.—Nothing in this section shall be construed as requiring any outpatient prescription drug coverage offered under the plan to provide coverage for an outpatient prescription drug for which payment is prohibited under this title, notwithstanding that any benchmark benefit package includes coverage for such an outpatient prescription drug.

''(e) DESCRIPTION OF EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—

''(1) IN GENERAL.—A program described in this paragraph is an outpatient prescription drug coverage program for individuals who are entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title, that—

''(A) is administered or overseen by the State and receives funds from the State;

''(B) was offered as of the date of the enactment of this title;

''(C) does not receive or use any Federal funds; and

''(D) is certified by the Secretary as providing outpatient prescription drug coverage that satisfies the scope of coverage required under subparagraph (A), (B), or (D) of subsection (a)(1).

''(2) MODIFICATIONS.—A State may modify a program described in paragraph (1) from time to time so long as it does not reduce the actuarial value (evaluated as of the time of the modification) of the outpatient prescription drug coverage under the program below the lower of—

''(A) the actuarial value of the coverage under the program as of the date of enactment of this title; or

''(B) the actuarial value described in subsection (a)(1)(B).

''(f) BENEFICIARY PREMIUMS AND COST-SHARING.—

''(1) DESCRIPTION; GENERAL CONDITIONS.—

''(A) DESCRIPTION.—

''(i) IN GENERAL.—An outpatient prescription drug assistance plan shall include a description, consistent with this subsection, of the amount of any premiums or cost-sharing imposed under the plan.

''(ii) PUBLIC SCHEDULE OF CHARGES.—Any premium or cost-sharing described under clause (i) shall be imposed under the plan pursuant to a public schedule.

''(B) PROTECTION FOR BENEFICIARIES.—The outpatient prescription drug assistance plan may only vary premiums and cost-sharing based on the family income of low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs, in a manner that does not favor such beneficiaries with higher income over beneficiaries with low-income.

''(2) LIMITATIONS ON PREMIUMS AND COST-SHARING.—

''(A) NO PREMIUMS OR COST-SHARING FOR BENEFICIARIES WITH INCOME BELOW 100 PERCENT OF POVERTY LINE.—In the case of a low-income medicare beneficiary whose family income does not exceed 100 percent of the poverty line, the outpatient prescription drug assistance plan may not impose any premium or cost-sharing.

''(B) OTHER BENEFICIARIES.—For low-income medicare beneficiaries not described in subparagraph (A) and, if applicable, medicare beneficiaries with high drug costs, any premiums or cost-sharing imposed under the outpatient prescription drug assistance plan may be imposed, subject to paragraph (1)(B), on a sliding scale related to income, except that the total annual aggregate of such premiums and cost-sharing with respect to all such beneficiaries in a family under this title may not exceed 5 percent of such family's income for the year involved.

''(g) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—The outpatient prescription drug assistance plan shall not permit the imposition of any preexisting condition exclusion for covered benefits under the plan and may not discriminate in the pricing of premiums under such plan because of health status, claims experience, receipt of health care, or medical condition.

''SEC. 2204. ALLOTMENTS.

''(a) APPROPRIATION.—

''(1) IN GENERAL.—For the purpose of providing allotments under this section to States, there is appropriated, out of any money in the Treasury not otherwise appropriated—

''(A) for fiscal year 2001, $1,200,000,000;

''(B) for fiscal year 2002, $4,200,000,000;

''(C) for fiscal year 2003, $9,000,000,000; and

''(D) for fiscal year 2004, $3,000,000,000.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall only be available for providing the allotments described in such paragraph during the fiscal year for which such amounts are appropriated. Any amounts that have not been obligated by the Secretary for the purposes of making payments from such allotments under section 2205, or under contracts entered into under section 2209(b)(2)(B), on or before September 30 of fiscal year 2001, 2002, or 2003 (as applicable) or, with respect to fiscal year 2004, December 31, 2003, shall be returned to the Treasury.

''(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF COLUMBIA.—

''(1) IN GENERAL.—Subject to paragraph (3), of the amount available for allotment under subsection (a) for a fiscal year, reduced by the amount of allotments made under subsection (c) for the fiscal year, the Secretary shall allot to each State (other than a State described in such subsection) with an outpatient prescription drug assistance plan approved under this title the same proportion as the ratio of—

''(A) the number of medicare beneficiaries with family income that does not exceed 150 percent of the poverty line residing in the State for the fiscal year; to

''(B) the total number of such beneficiaries residing in all such States.

''(2) DETERMINATION OF NUMBER OF MEDICARE BENEFICIARIES WITH INCOME THAT DOES NOT EXCEED 150 PERCENT OF POVERTY.—For purposes of paragraph (1), a determination of the number of medicare beneficiaries with family income that does not exceed 150 percent of the poverty line residing in a State for the calendar year in which such fiscal year begins shall be made on the basis of the arithmetic average of the number of such medicare beneficiaries, as reported and defined in the 5 most recent March supplements to the Current Population Survey of the Bureau of the Census before the beginning of the fiscal year.

''(3) MINIMUM ALLOTMENT.—In no case shall the amount of the allotment under this subsection for one of the 50 States or the District of Columbia for a fiscal year be less than an amount equal to 0.5 percent of the amount provided for allotments under subsection (a) for that fiscal year (reduced by the amount of allotments made under subsection (c) for the fiscal year). To the extent that the application of the previous sentence results in an increase in the allotment to a State or the District of Columbia above the amount otherwise provided, the allotments for the other States and the District of Columbia under this subsection shall be reduced in a pro rata manner (but not below the minimum allotment described in such preceding sentence) so that the total of such allotments in a fiscal year does not exceed the amount otherwise provided for allotment under subsection (a) for that fiscal year (as so reduced).

''(c) ALLOTMENTS TO TERRITORIES.—

''(1) IN GENERAL.—Of the amount available for allotment under subsection (a) for a fiscal year, the Secretary shall allot 0.25 percent among each of the commonwealths and territories described in paragraph (3) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

''(2) PERCENTAGE.—The percentage specified in this paragraph for—

''(A) Puerto Rico is 91.6 percent;

''(B) Guam is 3.5 percent;

''(C) the United States Virgin Islands is 2.6 percent;

''(D) American Samoa is 1.2 percent; and

''(E) the Northern Mariana Islands is 1.1 percent.

''(3) COMMONWEALTHS AND TERRITORIES.—A commonwealth or territory described in this paragraph is any of the following if it has an outpatient prescription drug assistance plan approved under this title:

''(A) Puerto Rico.

''(B) Guam.

''(C) The United States Virgin Islands.

''(D) American Samoa.

''(E) The Northern Mariana Islands.

''(d) TRANSFER OF CERTAIN ALLOTMENTS AND PORTIONS OF ALLOTMENTS.—

''(1) TRANSFER AND REDISTRIBUTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), not later than 30 days after the date described in paragraph (2)—

''(i) 90 percent of the allotment determined for a fiscal year under subsection (b) or (c) for a State shall be transferred and made available in such fiscal year to the Secretary, acting through the Administrator of the Health Care Financing Administration, for purposes of carrying out the default program established under section 2209; and

''(ii) 10 percent of such allotment shall be redistributed in accordance with subsection (e).

''(B) APPLICABILITY.—Subparagraph (A) shall not apply if, not later than the date described in paragraph (2) for such fiscal year, a State submits a plan or is part of a group of States that submits a plan to the Secretary that the Secretary finds meets the requirements of section 2201(b).

''(2) DATE DESCRIBED.—The date described in this paragraph is—

''(A) in the case of fiscal year 2001, December 31, 2000; and

''(B) in the case of fiscal year 2002, 2003, or 2004, September 1 of the fiscal year preceding such fiscal year.

''(e) REDISTRIBUTION OF PORTION OF ALLOTMENTS.—With respect to a fiscal year, not later than 30 days after the date described in subsection (d)(2) for such fiscal year, the Secretary shall redistribute the total amount made available for redistribution for such fiscal year under subsection (d)(1)(A)(ii) to each State that submits a plan or is part of a group of States that submits a plan to the Secretary that the Secretary finds meets the requirements of this title. Such amount shall be redistributed in the same manner as allotments are determined under subsections

(b) and (c) and shall be available only to the extent consistent with subsection (a)(2).

"SEC. 2205. PAYMENTS TO STATES.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan approved under section 2206(a)(2) (individually or as part of a group of States) from the State's allotment under section 2204, an amount for each quarter equal to the applicable percentage of expenditures in the quarter—

''(1) for outpatient prescription drug assistance under the plan for low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs in the form of providing coverage for outpatient prescription drugs that meets the requirements of section 2203; and

''(2) only to the extent permitted consistent with subsection (c), for reasonable costs incurred to administer the plan.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) for low-income medicare beneficiaries with family incomes that do not exceed 135 percent of the poverty line, 100 percent; and

''(2) for all other low-income medicare beneficiaries and for medicare beneficiaries with high drug costs, the enhanced FMAP (as defined in section 2105(b)).

''(c) LIMITATION ON PAYMENTS FOR CERTAIN EXPENDITURES.—

''(1) GENERAL LIMITATIONS.—Funds provided to a State or group of States under this title shall only be used to carry out the purposes of this title.

''(2) ADMINISTRATIVE EXPENDITURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), payment shall not be made under subsection (a) for expenditures described in subsection (a)(2) for a fiscal year to the extent the total of such expenditures (for which payment is made under such subsection) exceeds 10 percent of the total expenditures described in subsection (a)(1) made by—

''(i) in the case of a State that is not part of a group of States, the State for such fiscal year; and

''(ii) in the case of a group of States, the group for such fiscal year.

''(B) SPECIAL RULE.—With respect to the first fiscal year that a State or group of States provides outpatient prescription drug assistance under a plan approved under this title, the 10 percent limitation described in subparagraph (A) shall be applied—

''(i) in the case of a State that is not part of a group of States, to the allotment available for such State for such fiscal year; and

''(ii) in the case of a group of States, to the aggregate of the State allotments available for all the States in such group for such fiscal year.

''(3) USE OF NON-FEDERAL FUNDS FOR STATE MATCHING REQUIREMENT.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of the non-Federal share of plan expenditures required under the plan.

''(4) OFFSET OF RECEIPTS ATTRIBUTABLE TO PREMIUMS OR COST-SHARING.—For purposes of subsection (a), the amount of the expenditures under the plan shall be reduced by the amount of any premiums or cost-sharing received by a State.

''(5) PREVENTION OF DUPLICATIVE PAYMENTS.—

''(A) OTHER HEALTH PLANS.—No payment shall be made under this section for expenditures for outpatient prescription drug assistance provided under an outpatient prescription drug assistance plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan, a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the beneficiary is eligible for or is provided outpatient prescription drug assistance under the plan.

''(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as otherwise provided by law, no payment shall be made under this section for expenditures for outpatient prescription drug assistance provided under an outpatient prescription drug assistance plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) shall apply.

''(d) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by a State or group of States and such other investigation as the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

''(e) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—Nothing in this section shall be construed as preventing a State or group of States from claiming as expenditures in any quarter of a fiscal year expenditures that were incurred in a previous quarter of such fiscal year.

"SEC. 2206. PROCESS FOR SUBMISSION, APPROVAL, AND AMENDMENT OF OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLANS.

''(a) INITIAL PLAN.—

''(1) SUBMISSION.—A State may receive payments under section 2205 with respect to a fiscal year if the State, individually or as part of a group of States, has submitted to the Secretary, not later than the date described in section 2204(d)(2), an outpatient prescription drug assistance plan that the Secretary has found meets the applicable requirements of this title.

''(2) APPROVAL.—Except as the Secretary may provide under subsection (e), a plan submitted under paragraph (1)—

''(A) shall be approved for purposes of this title; and

''(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 2000.

''(b) PLAN AMENDMENTS.—Within 30 days after a State or group of States amends an outpatient prescription drug assistance plan submitted pursuant to subsection (a), the State or group shall notify the Secretary of the amendment.

''(c) DISAPPROVAL OF PLANS AND PLAN AMENDMENTS.—

''(1) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this title.

''(2) 45-DAY APPROVAL DEADLINES.—A plan or plan amendment is considered approved unless the Secretary notifies the State or group of States in writing, within 45 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for the disapproval) or that specified additional information is needed.

''(3) CORRECTION.—In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State or group of States with a reasonable opportunity for correction before taking financial sanctions against the State or group on the basis of such disapproval.

''(d) PROGRAM OPERATION.—

''(1) IN GENERAL.—A State or group of States shall conduct the program in accordance with the plan (and any amendments) approved under this section and with the requirements of this title.

''(2) VIOLATIONS.—The Secretary shall establish a process for enforcing requirements under this title. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State or group of States under this paragraph, the Secretary shall provide a State or group of States with a reasonable opportunity for correction and for administrative and judicial appeal of the Secretary's action before taking financial sanctions against the State or group of States on the basis of such an action.

''(e) CONTINUED APPROVAL.—Subject to section 2201(d), an approved outpatient prescription drug assistance plan shall continue in effect unless and until the State or group of States amends the plan under subsection (b) or the Secretary finds, under subsection (d), substantial noncompliance of the plan with the requirements of this title.

"SEC. 2207. PLAN ADMINISTRATION; APPLICATION OF CERTAIN GENERAL PROVISIONS.

''(a) PLAN ADMINISTRATION.—An outpatient prescription drug assistance plan shall include an assurance that the State or group of States administering the plan will collect the data, maintain the records, afford the Secretary access to any records or information relating to the plan for the purposes of review or audit, and furnish reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor program administration and compliance and to evaluate and compare the effectiveness of plans under this title.

''(b) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of this Act shall apply to the program established under this title in the same manner as they apply to a State under title XIX:

''(1) TITLE XIX PROVISIONS.—

''(A) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(B) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

''(C) Section 1903(w) (relating to limitations on provider taxes and donations).

''(2) TITLE XI PROVISIONS.—

''(A) Section 1115 (relating to waiver authority).

''(B) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

''(C) Section 1124 (relating to disclosure of ownership and related information).

''(D) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(E) Section 1128A (relating to civil monetary penalties).

''(F) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"SEC. 2208. REPORTS.

''(a) IN GENERAL.—Each State or group of States administering a plan under this title shall annually—

''(1) assess the operation of the outpatient prescription drug assistance plan under this title in each fiscal year; and

''(2) report to the Secretary on the result of the assessment.

''(b) REQUIRED INFORMATION.—The annual report required under subsection (a) shall include the following:

''(1) An assessment of the effectiveness of the plan in providing outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(2) A description and analysis of the effectiveness of elements of the plan, including—

''(A) the characteristics of the low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs assisted under the plan, including family income and access to, or coverage by, other health insurance prior to the plan and after eligibility for the plan ends;

''(B) the amount and level of assistance provided under the plan; and

''(C) the sources of the non-Federal share of plan expenditures.

''(c) ANNUAL REPORT OF THE SECRETARY.—The Secretary shall submit to Congress and make available to the public an annual report based on the reports required under subsection (a) and section 2209(b)(5), containing any conclusions and recommendations the Secretary considers appropriate.

''SEC. 2209. ESTABLISHMENT OF DEFAULT PROGRAM.

''(a) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—With respect to a fiscal year, in the case of a State that fails to submit (individually or as part of a group of States) an approved outpatient prescription drug assistance plan to the Secretary by the date described in section 2204(d)(2) for such fiscal year, outpatient prescription drug assistance to low-income medicare beneficiaries and, subject to the availability of funds, medicare beneficiaries with high drug costs, who reside in such State shall be provided during such fiscal year by the Secretary, through the Administrator of the Health Care Financing Administration, in accordance with this section.

''(2) DEFINITIONS.—In this section:

''(A) CONTRACTOR.—The term 'contractor' means a pharmaceutical benefit manager or other entity that meets standards established by the Administrator of the Health Care Financing Administration for the provision of outpatient prescription drug assistance under a contract entered into under this section.

''(B) LOW-INCOME MEDICARE BENEFICIARY.—The term 'low-income medicare beneficiary' means an individual who—

''(i) satisfies the requirements of subparagraphs (A) and (B) of section 2202(b)(1);

''(ii) is determined to have family income that does not exceed a percentage of the poverty line for a family of the size involved specified by the Administrator of the Health Care Financing Administration that may not exceed 135 percent; and

''(iii) at the option of the Administrator of the Health Care Financing Administration, is determined to have resources that do not exceed a level specified by such Administrator.

''(C) MEDICARE BENEFICIARY WITH HIGH DRUG COSTS.—The term 'medicare beneficiary with high drug costs' means an individual—

''(i) who satisfies the requirements of subparagraphs (A) and (B) of section 2202(b)(1);

''(ii) whose family income exceeds the percentage of the poverty line specified by the Administrator of the Health Care Financing Administration under subparagraph (B)(ii) for a low-income medicare beneficiary residing in the same State;

''(iii) whose resources exceed a level (if any) specified by the Administrator of the Health Care Financing Administration under subparagraph (B)(iii) for a low-income medicare beneficiary residing in the same State; and

''(iv) with respect to any 3-month period, who has out-of-pocket expenses for outpatient prescription drugs and biologicals (including insulin and insulin supplies) for which outpatient prescription drug assistance is available under this title that exceed a level specified by such Administrator (consistent with the availability of funds for the operation of the program established under this section in the State where the beneficiary resides).

''(b) ADMINISTRATION.—In administering the default program established under this section, the Administrator of the Health Care Financing Administration shall—

''(1) establish procedures to determine the eligibility of the low-income medicare beneficiaries and medicare beneficiaries with high drug costs described in subsection (a) for outpatient prescription drug assistance;

''(2) establish a process for accepting bids to provide outpatient prescription drug assistance to such beneficiaries, awarding contracts under such bids, and making payments under such contracts;

''(3) establish policies and procedures for overseeing the provision of outpatient prescription drug assistance under such contracts;

''(4) develop and implement quality and service assessment measures that include beneficiary quality surveys and annual quality and service rankings for contractors awarded a contract under this section;

''(5) annually assess the program established under this section and submit a report to the Secretary containing the information required under section 2208(b); and

''(6) carry out such other responsibilities as are necessary for the administration of the provision of outpatient prescription drug assistance under this section.

''(c) CONTRACT REQUIREMENTS.—

''(1) AUTHORITY; TERM.—

''(A) USE OF COMPETITIVE PROCEDURES.—

''(i) FISCAL YEAR 2001.—With respect to fiscal year 2001, the Administrator of the Health Care Financing Administration may enter into contracts under this section without using competitive procedures, as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)), or any other provision of law requiring competitive bidding.

''(ii) FISCAL YEARS 2002, 2003, AND 2004.—With respect to fiscal years 2002, 2003, and 2004, the Administrator of the Health Care Financing Administration shall award contracts under this section using competitive procedures (as so defined).

''(B) TERM.—Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

''(2) BENEFIT.—The contract shall require the contractor to provide a low-income medicare beneficiary and, if applicable, a medicare beneficiary with high drug costs, outpatient prescription drug assistance that is equivalent to the FEHBP-equivalent benchmark benefit package described in section 2203(b)(2) in a manner that is consistent with the provisions of this title as such provisions apply to a State that provides such assistance.

''(3) QUALITY AND SERVICE ASSESSMENT.—The contract shall require the contractor to cooperate with the quality and service assessment measures implemented in accordance with subsection (b)(4).

''(4) PAYMENTS.—The contract shall specify the amount and manner by which payments (including any administrative fees) shall be made to the contractor for the provision of outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(d) FUNDING.—

''(1) AGGREGATE OF TRANSFERRED AMOUNTS.—The Secretary, through the Administrator of the Health Care Financing Administration, shall use the aggregate of the amounts transferred and made available under section 2204(d)(1)(A)(i) for purposes of carrying out the default program established under this section. Such aggregate may be used to provide outpatient prescription drug assistance to any low-income medicare beneficiary, and, subject to the availability of funds, medicare beneficiary with high drug costs, who resides in a State described in subsection (a)(1).

''(2) LIMITATION ON ADMINISTRATIVE COSTS.—Administrative expenditures incurred by the Secretary or the Administrator of the Health Care Financing Administration for a fiscal year to carry out this section (other than administrative fees paid to a contractor under a contract meeting the requirements of subsection (c))—

''(A) shall be paid out of the aggregate amounts described in paragraph (1); and

''(B) may not exceed an amount equal to 1 percent of all premiums imposed for such fiscal year to provide outpatient prescription drug assistance to low-income medicare beneficiaries and medicare beneficiaries with high drug costs under this section.

''(e) TERMINATION.—Except as provided in section 2201(d)(2), the program established under this section shall terminate on December 31, 2003.

''SEC. 2210. DEFINITIONS.

''In this title:

''(1) COST-SHARING.—The term 'cost-sharing' means a deductible, coinsurance, copayment, or similar charge, and includes an enrollment fee.

''(2) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE.—

''(A) IN GENERAL.—The term 'outpatient prescription drug assistance' means, subject to subparagraph (B), payment for part or all of the cost of coverage of self-administered outpatient prescription drugs and biologicals (including insulin and insulin supplies) for low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(B) EXCLUSIONS.—Such term does not include payment or coverage with respect to—

''(i) items covered under title XVIII; or

''(ii) items for which coverage is not available under a State plan under title XIX.

''(3) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLAN; PLAN.—Unless the context otherwise requires, the terms 'outpatient prescription drug assistance plan' and 'plan' mean an outpatient prescription drug assistance plan approved under section 2206.

''(4) GROUP HEALTH PLAN; GROUP HEALTH INSURANCE COVERAGE; ETC.—The terms 'group health plan', 'group health insurance coverage', and 'health insurance coverage' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91).

''(5) POVERTY LINE.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(6) PREEXISTING CONDITION EXCLUSION.—The term 'preexisting condition exclusion' has the meaning given such term in section 2701(b)(1)(A) of the Public Health Service Act (42 U.S.C. 300gg(b)(1)(A)).

''(7) STATE.—The term 'State' has the meaning given such term for purposes of title XIX.''.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF STATE.—Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended in the first and fourth sentences, by striking ''and XXI'' each place it appears and inserting ''XXI, and XXII''.

(2) TREATMENT AS STATE HEALTH CARE PROGRAM.—Section 1128(h) of such Act (42 U.S.C. 1320a–7(h)) is amended—

(A) in paragraph (3), by striking ''or'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting '', or''; and

(C) by adding at the end the following new paragraph:

''(5) an outpatient prescription drug assistance plan approved under title XXII.''.

SEC. 3. ELECTION BY LOW-INCOME MEDICARE BENEFICIARIES AND MEDICARE BENEFICIARIES WITH HIGH DRUG COSTS TO SUSPEND MEDIGAP INSURANCE.

Section 1882(q) of the Social Security Act (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (5)(C), by striking ''this paragraph or paragraph (6)'' and inserting ''this paragraph, or paragraph (6) or (7)''; and

(2) by adding at the end the following new paragraph:

''(7) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226 and is covered under an outpatient prescription drug assistance plan (as defined in section 2210(3)) or provided outpatient prescription drug assistance under the program established under section 2209. If such suspension occurs and if the policyholder or certificate holder loses coverage under such plan or program, such policy shall be automatically reinstituted (effective as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(ii) as of the loss of such coverage if the policyholder provides notice of loss of such coverage within 90 days after the date of such loss.''.

Mr. JEFFORDS. Mr. President, today I am announcing my support for the Medicare Temporary Drug Assistance Act, introduced by Senator ROTH. The Act will immediately provide funding for prescription drugs for Medicare beneficiaries who are having difficulty paying for the medicines that they need to live longer, happier lives.

Mr. President, we all know that as the baby boomers become eligible for Medicare the program needs to be reformed due to the increased population. As a part of Medicare reform, we must have a broad prescription drug benefit that ensures that all Medicare beneficiaries have access to affordable medications. It doesn't make any sense for Medicare to pay for the cost of hospital stays, but not cover the drugs that can keep patients out of the hospital. The best medicines in the world will not help a patient who can't afford to take them. That is why I will continue to do all that I can, as the Chairman of the Committee on Health, Education, Labor and Pensions and member of the Finance Committee, to assure that Medicare beneficiaries have access to affordable prescription drugs this year.

Today Chairman ROTH has introduced two bills—one version that stays within the Budget Resolution, and one that exceeds our budget restraints—and I am proud to be an original cosponsor of this legislation, because I am convinced that it will immediately help millions of Americans who need but can't afford their medications. My own state of Vermont, which has already acted responsibly by extending prescription drug coverage to many low-income seniors through the Vermont Health Access Plan and the Vscript pharmacy program, will be rewarded with millions of federal dollars to extend its coverage to even larger numbers of Medicare beneficiaries. Under this bill, federal dollars will begin paying for prescription drugs for Vermonters on October 1 of this year—that's only about three weeks from now.

Mr. President, I commend Chairman ROTH for his outstanding leadership on this issue. Chairman ROTH has worked tirelessly with me and the other members of the Finance Committee, clearly demonstrating that he supports Medicare reform, including coverage of prescription drugs, and that he believes that this can only be achieved through a bipartisan process. I have strongly supported his efforts to build a bipartisan consensus on this issue through the Committee process.

Several weeks ago, Chairman ROTH acknowledged the difficulty in finding a bipartisan consensus during this election year, and announced that if the Finance Committee is unable to report out a bipartisan Medicare reform bill, he would propose a plan to cover prescription drugs for the most needy Medicare beneficiaries, through grants to the states, as a stop-gap measure until Congress is able to pass larger-scale Medicare reform. He also acknowledged that even if we were able to enact a prescription drug benefit this year, it would be almost impossible to implement such a plan for at least two years. The bill he has introduced today addresses both of these problems.

Mr. President, let me be clear. This proposal is a stop-gap measure that will be put into place only until we are able to achieve broad Medicare reform, including prescription drug coverage that benefits all Medicare beneficiaries. This is not a substitute for Medicare reform, and it does not mean that we have given up on enacting Medicare reform this year. We must also attack the problem of affordability by passing my bill, the Medicine Equity and Drug Safety Act (S. 2520), which already passed the Senate by a vote of 74–21 as a part of the Agriculture Appropriations bill. These efforts will be undertaken simultaneously. I consider this bill to be emergency aid for prescription drugs that will be the bridge to a comprehensive plan. It is a very important down payment that will benefit Vermonters and all Americans immediately. That is why I am an original cosponsor of Chairman ROTH's proposal, I urge my colleagues support.

Thank you, Mr. President. I yield the floor.

By Mr. ROTH (for himself, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. STEVENS, and Mr. FRIST):

S. 3017. A bill to amend the Social Security Act to establish an outpatient prescription drug assistance program for low-income Medicare beneficiaries and Medicare beneficiaries with high drug costs; to the Committee on Finance.

MEDICARE TEMPORARY DRUG ASSISTANCE ACT

Mr. ROTH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Temporary Drug Assistance Act''.

SEC. 2. OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new title:

''TITLE XXII—OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PROGRAM

''SEC. 2201. PURPOSE; OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLANS.

''(a) PURPOSE.—The purpose of this title is to provide funds to States to enable States, individually or in a group, to establish a program, separate from the medicaid program under title XIX, to provide assistance to low-income medicare beneficiaries (as defined in section 2202(b)) and, at State option, medicare beneficiaries with high drug costs (as defined in section 2202(c)) to obtain coverage for outpatient prescription drugs.

''(b) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLAN REQUIRED.—A State may not receive payments under section 2205 unless the State, individually or as part of a group of States, submits in writing to the Secretary an outpatient prescription drug assistance plan under section 2206(a)(1) that—

''(1) describes how the State or group of States intends to use the funds provided under this title to provide outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs consistent with the provisions of this title;

''(2) includes a description of the budget for the plan (updated periodically as necessary) and details on the planned use of funds, the sources of the non-Federal share of plan expenditures, and any requirements for cost-sharing by beneficiaries;

''(3) describes the procedures to be used to ensure that the outpatient prescription drug assistance provided to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs under the plan does not supplant coverage for outpatient prescription drugs available to such beneficiaries under group health plans; and

''(4) has been approved by the Secretary under section 2206(a)(2).

''(c) ENTITLEMENT.—Subject to subsection (d)(2), this title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States, groups of States, and contractors described in section 2209(a)(2)(A), of amounts provided under section 2204.

''(d) PERIOD OF APPLICABILITY.—

''(1) IN GENERAL.—No State, group of States, or contractor described in section 2209(a)(2)(A), may receive payments under section 2205 for outpatient prescription drug assistance provided for periods beginning before October 1, 2000, or after September 30, 2004.

''(2) MEDICARE REFORM.—If medicare reform legislation that includes coverage for outpatient prescription drugs is enacted during the period that begins on October 1, 2000, and ends on September 30, 2004, this title shall be repealed upon the effective date of such legislation, and no State, group of States, or contractor described in section 2209(a)(2)(A) shall be entitled to receive payments for any outpatient prescription drug assistance provided on or after such date.

''SEC. 2202. BENEFICIARY ELIGIBILITY.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—In order for a State (individually or as part of a group of States) to receive payments under section 2205 with respect to an outpatient prescription drug assistance program, the program must provide, subject to the availability of funds, outpatient prescription drug assistance to each individual who—

''(A) resides in the State;

''(B) applies for such assistance; and

''(C) establishes that the individual is—

''(i) a low-income medicare beneficiary (as defined in subsection (b)); or

''(ii) at the option of the State, a medicare beneficiary with high drug costs (as defined in subsection (c)).

''(2) RESIDENCY RULES.—In applying paragraph (1), residency rules similar to the residency rules applicable to the State plan under title XIX shall apply.

''(b) LOW-INCOME MEDICARE BENEFICIARY DEFINED.—

''(1) IN GENERAL.—In this title, except as provided in section 2209(a)(2)(B), the term 'low-income medicare beneficiary' means an individual who—

''(A) is entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title;

''(B) subject to subsection (d), is not entitled to medical assistance with respect to prescribed drugs under title XIX or under a waiver under section 1115 of the requirements of such title;

''(C) is determined to have family income that does not exceed a percentage of the poverty line for a family of the size involved specified by the State that, subject to paragraph (2), may not exceed 175 percent; and

''(D) at the option of the State, is determined to have resources that do not exceed a level specified by the State.

''(2) STATE-ONLY DRUG ASSISTANCE PROGRAMS.—In the case of a State that has a State-based drug assistance program described in section 2203(e) that provides outpatient prescription drug coverage for individuals described in paragraph (1)(A) who have family income up to or exceeding 175 percent of the poverty line, the State may specify a percentage of the poverty line under paragraph (1)(C) that exceeds the income eligibility level specified by the State for such program but does not exceed 50 percentage points above such income eligibility level.

''(c) MEDICARE BENEFICIARY WITH HIGH DRUG COSTS DEFINED.—

''(1) IN GENERAL.—In this title, except as provided in section 2209(a)(2)(C), the term 'medicare beneficiary with high drug costs' means an individual—

''(A) who satisfies the requirements of subparagraphs (A) and (B) of subsection (b)(1);

''(B) whose family income exceeds the percentage of the poverty line specified by the State in accordance with subsection (b)(1)(C);

''(C) at the option of the State, whose resources exceed a level (if any) specified by the State in accordance with subsection (b)(1)(D); and

''(D) who has out-of-pocket expenses for outpatient prescription drugs and biologicals (including insulin and insulin supplies) for which outpatient prescription drug assistance is available under this title that exceed such amount as the State specifies in accordance with paragraph (2).

''(2) DETERMINATION OF OUT-OF-POCKET EXPENSES.—A State that elects to provide outpatient prescription drug assistance to an individual described in paragraph (1) shall provide the Secretary with the methodology and standards used to determine the individual's eligibility under subparagraph (D) of such paragraph.

''(d) ACCESS FOR MEDICAID EXPANSION STATES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, with respect to any State that, as of the date of enactment of this title, has made outpatient prescription drug coverage for individuals described in paragraph (2) available through the State medicaid program under title XIX under a section 1115 waiver, the Secretary, in consultation with such State, shall establish procedures under which the State shall be able to receive payments from the allotment made available under section 2204 for such State for a fiscal year for purposes of offsetting the costs of making such coverage available to such individuals.

''(2) INDIVIDUALS DESCRIBED.—Individuals described in this paragraph are individuals who are—

''(A) entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title; and

''(B) eligible for outpatient prescription drug coverage only, under a State medicaid program under title XIX as a result of a section 1115 waiver.

''(e) INDIVIDUAL NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to outpatient prescription drug assistance provided under this title.

''SEC. 2203. COVERAGE REQUIREMENTS.

''(a) REQUIRED SCOPE OF COVERAGE.—

''(1) IN GENERAL.—The outpatient prescription drug assistance provided under the plan may consist of any of the following:

''(A) BENCHMARK COVERAGE.—Outpatient prescription drug coverage that is equivalent to the outpatient prescription drug coverage in a benchmark benefit package described in subsection (b).

''(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—Outpatient prescription drug coverage that has an aggregate actuarial value that is at least equivalent to one of the benchmark benefit packages.

''(C) EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—Outpatient prescription drug coverage under an existing State-based program, described in subsection (e).

''(D) SECRETARY-APPROVED COVERAGE.—Any other outpatient prescription drug coverage that the Secretary determines, upon application by a State or group of States, provides appropriate outpatient prescription drug coverage for the population of medicare beneficiaries proposed to be provided such coverage.

''(2) CONSISTENT DESIGN.—A State or group of States may only select one of the options described in paragraph (1) (and, if the State or group chooses to provide outpatient prescription drug coverage that is equivalent to the outpatient prescription drug coverage in a benchmark benefit package, only one of the benchmark benefit package options described in subsection (b)) in order to provide outpatient prescription drug assistance in a uniform manner for the population of medicare beneficiaries provided such coverage.

''(b) BENCHMARK BENEFIT PACKAGES.—The benchmark benefit packages are as follows:

''(1) MEDICAID OUTPATIENT PRESCRIPTION DRUG COVERAGE.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under the State medicaid plan under title XIX; or

''(B) a group of States, the outpatient prescription drug coverage provided under the State medicaid plan under such title of one of the States in the group, as identified in the outpatient prescription drug assistance plan.

''(2) FEHBP-EQUIVALENT OUTPATIENT PRESCRIPTION DRUG COVERAGE.—The outpatient prescription drug coverage provided under the Standard Option Blue Cross and Blue Shield Service Benefit Plan described in and offered under section 8903(1) of title 5, United States Code.

''(3) STATE EMPLOYEE OUTPATIENT PRESCRIPTION DRUG COVERAGE.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under a health benefits coverage plan that is offered and generally available to State employees in the State involved; or

''(B) a group of States, the outpatient prescription drug coverage provided under a health benefits coverage plan that is offered and generally available to State employees in one of the States in the group, as identified in the outpatient prescription drug assistance plan.

''(4) OUTPATIENT PRESCRIPTION DRUG COVERAGE OFFERED THROUGH LARGEST HMO.—In the case of—

''(A) a State, the outpatient prescription drug coverage provided under a health insurance coverage plan that is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act) and has the largest insured commercial, nonmedicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved; or

''(B) a group of States, the outpatient prescription drug coverage provided under a health insurance coverage plan that is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act) and has the largest insured commercial, nonmedicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in one of the States involved.

''(c) DETERMINATION OF ACTUARIAL VALUE OF COVERAGE.—

''(1) IN GENERAL.—The actuarial value of outpatient prescription drug coverage offered under benchmark benefit packages and the outpatient prescription drug assistance plan shall be set forth in an opinion in a report that has been prepared—

''(A) by an individual who is a member of the American Academy of Actuaries;

''(B) using generally accepted actuarial principles and methodologies;

''(C) using a standardized set of utilization and price factors;

''(D) using a standardized population that is representative of the population to be covered under the outpatient prescription drug assistance plan;

''(E) applying the same principles and factors in comparing the value of different coverage;

''(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

''(G) taking into account the ability of a State or group of States to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under

the outpatient prescription drug assistance plan that results from the limitations on cost-sharing under such coverage.

''(2) REQUIREMENT.—The actuary preparing the opinion shall select and specify in the report the standardized set and population to be used under subparagraphs (C) and (D) of paragraph (1).

''(d) PROHIBITED COVERAGE.—Nothing in this section shall be construed as requiring any outpatient prescription drug coverage offered under the plan to provide coverage for an outpatient prescription drug for which payment is prohibited under this title, notwithstanding that any benchmark benefit package includes coverage for such an outpatient prescription drug.

''(e) DESCRIPTION OF EXISTING COMPREHENSIVE STATE-BASED COVERAGE.—

''(1) IN GENERAL.—A program described in this paragraph is an outpatient prescription drug coverage program for individuals who are entitled to benefits under part A of title XVIII or enrolled under part B of such title, including an individual enrolled in a Medicare+Choice plan under part C of such title, that—

''(A) is administered or overseen by the State and receives funds from the State;

''(B) was offered as of the date of the enactment of this title;

''(C) does not receive or use any Federal funds; and

''(D) is certified by the Secretary as providing outpatient prescription drug coverage that satisfies the scope of coverage required under subparagraph (A), (B), or (D) of subsection (a)(1).

''(2) MODIFICATIONS.—A State may modify a program described in paragraph (1) from time to time so long as it does not reduce the actuarial value (evaluated as of the time of the modification) of the outpatient prescription drug coverage under the program below the lower of—

''(A) the actuarial value of the coverage under the program as of the date of enactment of this title; or

''(B) the actuarial value described in subsection (a)(1)(B).

''(f) BENEFICIARY PREMIUMS AND COST-SHARING.—

''(1) DESCRIPTION; GENERAL CONDITIONS.—

''(A) DESCRIPTION.—

''(i) IN GENERAL.—An outpatient prescription drug assistance plan shall include a description, consistent with this subsection, of the amount of any premiums or cost-sharing imposed under the plan.

''(ii) PUBLIC SCHEDULE OF CHARGES.—Any premium or cost-sharing described under clause (i) shall be imposed under the plan pursuant to a public schedule.

''(B) PROTECTION FOR BENEFICIARIES.—The outpatient prescription drug assistance plan may only vary premiums and cost-sharing based on the family income of low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs, in a manner that does not favor such beneficiaries with higher income over beneficiaries with low-income.

''(2) LIMITATIONS ON PREMIUMS AND COST-SHARING.—

''(A) NO PREMIUMS OR COST-SHARING FOR BENEFICIARIES WITH INCOME BELOW 100 PERCENT OF POVERTY LINE.—In the case of a low-income medicare beneficiary whose family income does not exceed 100 percent of the poverty line, the outpatient prescription drug assistance plan may not impose any premium or cost-sharing.

''(B) OTHER BENEFICIARIES.—For low-income medicare beneficiaries not described in subparagraph (A) and, if applicable, medicare beneficiaries with high drug costs, any premiums or cost-sharing imposed under the outpatient prescription drug assistance plan may be imposed, subject to paragraph (1)(B), on a sliding scale related to income, except that the total annual aggregate of such premiums and cost-sharing with respect to all such beneficiaries in a family under this title may not exceed 5 percent of such family's income for the year involved.

''(g) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—The outpatient prescription drug assistance plan shall not permit the imposition of any preexisting condition exclusion for covered benefits under the plan and may not discriminate in the pricing of premiums under such plan because of health status, claims experience, receipt of health care, or medical condition.

''SEC. 2204. ALLOTMENTS.

''(a) APPROPRIATION.—

''(1) IN GENERAL.—For the purpose of providing allotments under this section to States, there is appropriated, out of any money in the Treasury not otherwise appropriated—

''(A) for fiscal year 2001, $1,300,000,000;

''(B) for fiscal year 2002, $4,600,000,000;

''(C) for fiscal year 2003, $9,700,000,000; and

''(D) for fiscal year 2004, $13,000,000,000.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall only be available for providing the allotments described in such paragraph during the fiscal year for which such amounts are appropriated. Any amounts that have not been obligated by the Secretary for the purposes of making payments from such allotments under section 2205, or under contracts entered into under section 2209(b)(2)(B), on or before September 30 of fiscal year 2001, 2002, 2003, or 2004 (as applicable), shall be returned to the Treasury.

''(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF COLUMBIA.—

''(1) IN GENERAL.—Subject to paragraph (3), of the amount available for allotment under subsection (a) for a fiscal year, reduced by the amount of allotments made under subsection (c) for the fiscal year, the Secretary shall allot to each State (other than a State described in such subsection) with an outpatient prescription drug assistance plan approved under this title the same proportion as the ratio of—

''(A) the number of medicare beneficiaries with family income that does not exceed 175 percent of the poverty line residing in the State for the fiscal year; to

''(B) the total number of such beneficiaries residing in all such States.

''(2) DETERMINATION OF NUMBER OF MEDICARE BENEFICIARIES WITH INCOME THAT DOES NOT EXCEED 175 PERCENT OF POVERTY.—For purposes of paragraph (1), a determination of the number of medicare beneficiaries with family income that does not exceed 175 percent of the poverty line residing in a State for the calendar year in which such fiscal year begins shall be made on the basis of the arithmetic average of the number of such medicare beneficiaries, as reported and defined in the 5 most recent March supplements to the Current Population Survey of the Bureau of the Census before the beginning of the fiscal year.

''(3) MINIMUM ALLOTMENT.—In no case shall the amount of the allotment under this subsection for one of the 50 States or the District of Columbia for a fiscal year be less than an amount equal to 0.5 percent of the amount provided for allotments under subsection (a) for that fiscal year (reduced by the amount of allotments made under subsection (c) for the fiscal year). To the extent that the application of the previous sentence results in an increase in the allotment to a State or the District of Columbia above the amount otherwise provided, the allotments for the other States and the District of Columbia under this subsection shall be reduced in a pro rata manner (but not below the minimum allotment described in such preceding sentence) so that the total of such allotments in a fiscal year does not exceed the amount otherwise provided for allotment under subsection (a) for that fiscal year (as so reduced).

''(c) ALLOTMENTS TO TERRITORIES.—

''(1) IN GENERAL.—Of the amount available for allotment under subsection (a) for a fiscal year, the Secretary shall allot 0.25 percent among each of the commonwealths and territories described in paragraph (3) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

''(2) PERCENTAGE.—The percentage specified in this paragraph for—

''(A) Puerto Rico is 91.6 percent;

''(B) Guam is 3.5 percent;

''(C) the United States Virgin Islands is 2.6 percent;

''(D) American Samoa is 1.2 percent; and

''(E) the Northern Mariana Islands is 1.1 percent.

''(3) COMMONWEALTHS AND TERRITORIES.—A commonwealth or territory described in this paragraph is any of the following if it has an outpatient prescription drug assistance plan approved under this title:

''(A) Puerto Rico.

''(B) Guam.

''(C) The United States Virgin Islands.

''(D) American Samoa.

''(E) The Northern Mariana Islands.

''(d) TRANSFER OF CERTAIN ALLOTMENTS AND PORTIONS OF ALLOTMENTS.—

''(1) TRANSFER AND REDISTRIBUTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), not later than 30 days after the date described in paragraph (2)—

''(i) 90 percent of the allotment determined for a fiscal year under subsection (b) or (c) for a State shall be transferred and made available in such fiscal year to the Secretary, acting through the Administrator of the Health Care Financing Administration, for purposes of carrying out the default program established under section 2209; and

''(ii) 10 percent of such allotment shall be redistributed in accordance with subsection (e).

''(B) APPLICABILITY.—Subparagraph (A) shall not apply if, not later than the date described in paragraph (2) for such fiscal year, a State submits a plan or is part of a group of States that submits a plan to the Secretary that the Secretary finds meets the requirements of section 2201(b).

''(2) DATE DESCRIBED.—The date described in this paragraph is—

''(A) in the case of fiscal year 2001, December 31, 2000; and

''(B) in the case of fiscal year 2002, 2003, or 2004, September 1 of the fiscal year preceding such fiscal year.

''(e) REDISTRIBUTION OF PORTION OF ALLOTMENTS.—With respect to a fiscal year, not later than 30 days after the date described in subsection (d)(2) for such fiscal year, the Secretary shall redistribute the total amount made available for redistribution for such fiscal year under subsection (d)(1)(A)(ii) to each State that submits a plan or is part of a group of States that submits a plan to the Secretary that the Secretary finds meets the requirements of this title. Such amount shall be redistributed in the same manner as allotments are determined under subsections (b) and (c) and shall be available only to the extent consistent with subsection (a)(2).

''SEC. 2205. PAYMENTS TO STATES.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan

approved under section 2206(a)(2) (individually or as part of a group of States) from the State's allotment under section 2204, an amount for each quarter equal to the applicable percentage of expenditures in the quarter—

''(1) for outpatient prescription drug assistance under the plan for low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs in the form of providing coverage for outpatient prescription drugs that meets the requirements of section 2203; and

''(2) only to the extent permitted consistent with subsection (c), for reasonable costs incurred to administer the plan.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) for low-income medicare beneficiaries with family incomes that do not exceed 135 percent of the poverty line, 100 percent; and

''(2) for all other low-income medicare beneficiaries and for medicare beneficiaries with high drug costs, the enhanced FMAP (as defined in section 2105(b)).

''(c) LIMITATION ON PAYMENTS FOR CERTAIN EXPENDITURES.—

''(1) GENERAL LIMITATIONS.—Funds provided to a State or group of States under this title shall only be used to carry out the purposes of this title.

''(2) ADMINISTRATIVE EXPENDITURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), payment shall not be made under subsection (a) for expenditures described in subsection (a)(2) for a fiscal year to the extent the total of such expenditures (for which payment is made under such subsection) exceeds 10 percent of the total expenditures described in subsection (a)(1) made by—

''(i) in the case of a State that is not part of a group of States, the State for such fiscal year; and

''(ii) in the case of a group of States, the group for such fiscal year.

''(B) SPECIAL RULE.—With respect to the first fiscal year that a State or group of States provides outpatient prescription drug assistance under a plan approved under this title, the 10 percent limitation described in subparagraph (A) shall be applied—

''(i) in the case of a State that is not part of a group of States, to the allotment available for such State for such fiscal year; and

''(ii) in the case of a group of States, to the aggregate of the State allotments available for all the States in such group for such fiscal year.

''(3) USE OF NON-FEDERAL FUNDS FOR STATE MATCHING REQUIREMENT.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of the non-Federal share of plan expenditures required under the plan.

''(4) OFFSET OF RECEIPTS ATTRIBUTABLE TO PREMIUMS OR COST-SHARING.—For purposes of subsection (a), the amount of the expenditures under the plan shall be reduced by the amount of any premiums or cost-sharing received by a State.

''(5) PREVENTION OF DUPLICATIVE PAYMENTS.—

''(A) OTHER HEALTH PLANS.—No payment shall be made under this section for expenditures for outpatient prescription drug assistance provided under an outpatient prescription drug assistance plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan, a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the beneficiary is eligible for or is provided outpatient prescription drug assistance under the plan.

''(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as otherwise provided by law, no payment shall be made under this section for expenditures for outpatient prescription drug assistance provided under an outpatient prescription drug assistance plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) shall apply.

''(d) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by a State or group of States and such other investigation as the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

''(e) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—Nothing in this section shall be construed as preventing a State or group of States from claiming as expenditures in any quarter of a fiscal year expenditures that were incurred in a previous quarter of such fiscal year.

''SEC. 2206. PROCESS FOR SUBMISSION, APPROVAL, AND AMENDMENT OF OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLANS.

''(a) INITIAL PLAN.—

''(1) SUBMISSION.—A State may receive payments under section 2205 with respect to a fiscal year if the State, individually or as part of a group of States, has submitted to the Secretary, not later than the date described in section 2204(d)(2), an outpatient prescription drug assistance plan that the Secretary has found meets the applicable requirements of this title.

''(2) APPROVAL.—Except as the Secretary may provide under subsection (e), a plan submitted under paragraph (1)—

''(A) shall be approved for purposes of this title; and

''(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 2000.

''(b) PLAN AMENDMENTS.—Within 30 days after a State or group of States amends an outpatient prescription drug assistance plan submitted pursuant to subsection (a), the State or group shall notify the Secretary of the amendment.

''(c) DISAPPROVAL OF PLANS AND PLAN AMENDMENTS.—

''(1) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this title.

''(2) 45-DAY APPROVAL DEADLINES.—A plan or plan amendment is considered approved unless the Secretary notifies the State or group of States in writing, within 45 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for the disapproval) or that specified additional information is needed.

''(3) CORRECTION.—In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State or group of States with a reasonable opportunity for correction before taking financial sanctions against the State or group on the basis of such disapproval.

''(d) PROGRAM OPERATION.—

''(1) IN GENERAL.—A State or group of States shall conduct the program in accordance with the plan (and any amendments) approved under this section and with the requirements of this title.

''(2) VIOLATIONS.—The Secretary shall establish a process for enforcing requirements under this title. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State or group of States under this paragraph, the Secretary shall provide a State or group of States with a reasonable opportunity for correction and for administrative and judicial appeal of the Secretary's action before taking financial sanctions against the State or group of States on the basis of such an action.

''(e) CONTINUED APPROVAL.—Subject to section 2201(d), an approved outpatient prescription drug assistance plan shall continue in effect unless and until the State or group of States amends the plan under subsection (b) or the Secretary finds, under subsection (d), substantial noncompliance of the plan with the requirements of this title.

''SEC. 2207. PLAN ADMINISTRATION; APPLICATION OF CERTAIN GENERAL PROVISIONS.

''(a) PLAN ADMINISTRATION.—An outpatient prescription drug assistance plan shall include an assurance that the State or group of States administering the plan will collect the data, maintain the records, afford the Secretary access to any records or information relating to the plan for the purposes of review or audit, and furnish reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor program administration and compliance and to evaluate and compare the effectiveness of plans under this title.

''(b) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of this Act shall apply to the program established under this title in the same manner as they apply to a State under title XIX:

''(1) TITLE XIX PROVISIONS.—

''(A) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(B) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

''(C) Section 1903(w) (relating to limitations on provider taxes and donations).

''(2) TITLE XI PROVISIONS.—

''(A) Section 1115 (relating to waiver authority).

''(B) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

''(C) Section 1124 (relating to disclosure of ownership and related information).

''(D) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(E) Section 1128A (relating to civil monetary penalties).

''(F) Section 1128B(d) (relating to criminal penalties for certain additional charges).

''SEC. 2208. REPORTS.

''(a) IN GENERAL.—Each State or group of States administering a plan under this title shall annually—

''(1) assess the operation of the outpatient prescription drug assistance plan under this title in each fiscal year; and

''(2) report to the Secretary on the result of the assessment.

''(b) REQUIRED INFORMATION.—The annual report required under subsection (a) shall include the following:

''(1) An assessment of the effectiveness of the plan in providing outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(2) A description and analysis of the effectiveness of elements of the plan, including—

''(A) the characteristics of the low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs assisted under the plan, including family income and access to, or coverage by, other health insurance prior to the plan and after eligibility for the plan ends;

''(B) the amount and level of assistance provided under the plan; and

''(C) the sources of the non-Federal share of plan expenditures.

''(c) ANNUAL REPORT OF THE SECRETARY.—The Secretary shall submit to Congress and make available to the public an annual report based on the reports required under subsection (a) and section 2209(b)(5), containing any conclusions and recommendations the Secretary considers appropriate.

''SEC. 2209. ESTABLISHMENT OF DEFAULT PROGRAM.

''(a) PROGRAM AUTHORITY.—

''(1) IN GENERAL.—With respect to a fiscal year, in the case of a State that fails to submit (individually or as part of a group of States) an approved outpatient prescription drug assistance plan to the Secretary by the date described in section 2204(d)(2) for such fiscal year, outpatient prescription drug assistance to low-income medicare beneficiaries and, subject to the availability of funds, medicare beneficiaries with high drug costs, who reside in such State shall be provided during such fiscal year by the Secretary, through the Administrator of the Health Care Financing Administration, in accordance with this section.

''(2) DEFINITIONS.—In this section:

''(A) CONTRACTOR.—The term 'contractor' means a pharmaceutical benefit manager or other entity that meets standards established by the Administrator of the Health Care Financing Administration for the provision of outpatient prescription drug assistance under a contract entered into under this section.

''(B) LOW-INCOME MEDICARE BENEFICIARY.—The term 'low-income medicare beneficiary' means an individual who—

''(i) satisfies the requirements of subparagraphs (A) and (B) of section 2202(b)(1);

''(ii) is determined to have family income that does not exceed a percentage of the poverty line for a family of the size involved specified by the Administrator of the Health Care Financing Administration that may not exceed 135 percent; and

''(iii) at the option of the Administrator of the Health Care Financing Administration, is determined to have resources that do not exceed a level specified by such Administrator.

''(C) MEDICARE BENEFICIARY WITH HIGH DRUG COSTS.—The term 'medicare beneficiary with high drug costs' means an individual—

''(i) who satisfies the requirements of subparagraphs (A) and (B) of section 2202(b)(1);

''(ii) whose family income exceeds the percentage of the poverty line specified by the Administrator of the Health Care Financing Administration under subparagraph (B)(ii) for a low-income medicare beneficiary residing in the same State;

''(iii) whose resources exceed a level (if any) specified by the Administrator of the Health Care Financing Administration under subparagraph (B)(iii) for a low-income medicare beneficiary residing in the same State; and

''(iv) with respect to any 3-month period, who has out-of-pocket expenses for outpatient prescription drugs and biologicals (including insulin and insulin supplies) for which outpatient prescription drug assistance is available under this title that exceed a level specified by such Administrator (consistent with the availability of funds for the operation of the program established under this section in the State where the beneficiary resides).

''(b) ADMINISTRATION.—In administering the default program established under this section, the Administrator of the Health Care Financing Administration shall—

''(1) establish procedures to determine the eligibility of the low-income medicare beneficiaries and medicare beneficiaries with high drug costs described in subsection (a) for outpatient prescription drug assistance;

''(2) establish a process for accepting bids to provide outpatient prescription drug assistance to such beneficiaries, awarding contracts under such bids, and making payments under such contracts;

''(3) establish policies and procedures for overseeing the provision of outpatient prescription drug assistance under such contracts;

''(4) develop and implement quality and service assessment measures that include beneficiary quality surveys and annual quality and service rankings for contractors awarded a contract under this section;

''(5) annually assess the program established under this section and submit a report to the Secretary containing the information required under section 2208(b); and

''(6) carry out such other responsibilities as are necessary for the administration of the provision of outpatient prescription drug assistance under this section.

''(c) CONTRACT REQUIREMENTS.—

''(1) AUTHORITY; TERM.—

''(A) USE OF COMPETITIVE PROCEDURES.—

''(i) FISCAL YEAR 2001.—With respect to fiscal year 2001, the Administrator of the Health Care Financing Administration may enter into contracts under this section without using competitive procedures, as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)), or any other provision of law requiring competitive bidding.

''(ii) FISCAL YEARS 2002, 2003, AND 2004.—With respect to fiscal years 2002, 2003, and 2004, the Administrator of the Health Care Financing Administration shall award contracts under this section using competitive procedures (as so defined).

''(B) TERM.—Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

''(2) BENEFIT.—The contract shall require the contractor to provide a low-income medicare beneficiary and, if applicable, a medicare beneficiary with high drug costs, outpatient prescription drug assistance that is equivalent to the FEHBP-equivalent benchmark benefit package described in section 2203(b)(2) in a manner that is consistent with the provisions of this title as such provisions apply to a State that provides such assistance.

''(3) QUALITY AND SERVICE ASSESSMENT.—The contract shall require the contractor to cooperate with the quality and service assessment measures implemented in accordance with subsection (b)(4).

''(4) PAYMENTS.—The contract shall specify the amount and manner by which payments (including any administrative fees) shall be made to the contractor for the provision of outpatient prescription drug assistance to low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(d) FUNDING.—

''(1) AGGREGATE OF TRANSFERRED AMOUNTS.—The Secretary, through the Administrator of the Health Care Financing Administration, shall use the aggregate of the amounts transferred and made available under section 2204(d)(1)(A)(i) for purposes of carrying out the default program established under this section. Such aggregate may be used to provide outpatient prescription drug assistance to any low-income medicare beneficiary, and, subject to the availability of funds, medicare beneficiary with high drug costs, who resides in a State described in subsection (a)(1).

''(2) LIMITATION ON ADMINISTRATIVE COSTS.—Administrative expenditures incurred by the Secretary or the Administrator of the Health Care Financing Administration for a fiscal year to carry out this section (other than administrative fees paid to a contractor under a contract meeting the requirements of subsection (c))—

''(A) shall be paid out of the aggregate amounts described in paragraph (1); and

''(B) may not exceed an amount equal to 1 percent of all premiums imposed for such fiscal year to provide outpatient prescription drug assistance to low-income medicare beneficiaries and medicare beneficiaries with high drug costs under this section.

''(e) TERMINATION.—Except as provided in section 2201(d)(2), the program established under this section shall terminate on September 30, 2004.

''SEC. 2210. DEFINITIONS.

''In this title:

''(1) COST-SHARING.—The term 'cost-sharing' means a deductible, coinsurance, copayment, or similar charge, and includes an enrollment fee.

''(2) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE.—

''(A) IN GENERAL.—The term 'outpatient prescription drug assistance' means, subject to subparagraph (B), payment for part or all of the cost of coverage of self-administered outpatient prescription drugs and biologicals (including insulin and insulin supplies) for low-income medicare beneficiaries and, if applicable, medicare beneficiaries with high drug costs.

''(B) EXCLUSIONS.—Such term does not include payment or coverage with respect to—

''(i) items covered under title XVIII; or

''(ii) items for which coverage is not available under a State plan under title XIX.

''(3) OUTPATIENT PRESCRIPTION DRUG ASSISTANCE PLAN; PLAN.—Unless the context otherwise requires, the terms 'outpatient prescription drug assistance plan' and 'plan' mean an outpatient prescription drug assistance plan approved under section 2206.

''(4) GROUP HEALTH PLAN; GROUP HEALTH INSURANCE COVERAGE; ETC.—The terms 'group health plan', 'group health insurance coverage', and 'health insurance coverage' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91).

''(5) POVERTY LINE.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(6) PREEXISTING CONDITION EXCLUSION.—The term 'preexisting condition exclusion' has the meaning given such term in section 2701(b)(1)(A) of the Public Health Service Act (42 U.S.C. 300gg(b)(1)(A)).

''(7) STATE.—The term 'State' has the meaning given such term for purposes of title XIX.''.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF STATE.—Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended in the first and fourth sentences, by striking ''and XXI'' each place it appears and inserting ''XXI, and XXII''.

(2) TREATMENT AS STATE HEALTH CARE PROGRAM.—Section 1128(h) of such Act (42 U.S.C. 1320a–7(h)) is amended—

(A) in paragraph (3), by striking ''or'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting '', or''; and

(C) by adding at the end the following new paragraph:

''(5) an outpatient prescription drug assistance plan approved under title XXII.''.

SEC. 3. ELECTION BY LOW-INCOME MEDICARE BENEFICIARIES AND MEDICARE BENEFICIARIES WITH HIGH DRUG COSTS TO SUSPEND MEDIGAP INSURANCE.

Section 1882(q) of the Social Security Act (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (5)(C), by striking ''this paragraph or paragraph (6)'' and inserting ''this paragraph, or paragraph (6) or (7)''; and

(2) by adding at the end the following new paragraph:

''(7) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226 and is covered under an outpatient prescription drug assistance plan (as defined in section 2210(3)) or provided outpatient prescription drug assistance under the program established under section 2209. If such suspension occurs and if the policyholder or certificate holder loses coverage under such plan or program, such policy shall be automatically reinstituted (effective as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(ii) as of the loss of such coverage if the policyholder provides notice of loss of such coverage within 90 days after the date of such loss.''.

Mr. TORRICELLI (for himself and Mr. JOHNSON):

S. 3018. A bill to amend the Federal Deposit Insurance Act with respect to municipal deposits.

MUNICIPAL DEPOSIT INSURANCE PROTECTION ACT OF 2000

Mr. TORRICELLI. Mr. President, I rise with my colleague Senator JOHNSON to introduce ''The Municipal Deposit Insurance Protection Act of 2000.'' This legislation provides municipal deposits with one-hundred percent federal deposit insurance coverage by the Federal Deposit Insurance Corporation (FDIC). The lack of one-hundred percent coverage for municipal deposits has stifled the ability of community banks to invest in local families and businesses. By providing this much-needed coverage, this legislation ensures that local banks have the resources they need to grow their communities.

Municipal deposits are taxpayer funds deposited by state and local governments, school districts, water authorities and other public entities. Due to the fact that the FDIC does not provide insurance coverage to municipal deposits, many states require banks to provide collateral for municipal deposits. Full deposit insurance coverage of municipal deposits could free up bank resources currently used for collateral. These resources could be used to keep local public funds at work in the communities in which they are generated.

Moreover, FDIC coverage helps build consumer confidence in their bank and helps attract the core deposits that are needed for community lending and a bank's survival. Without FDIC coverage, many independent, local banks are losing substantial deposits to large, corporate banks because of the perception that larger banks are safer. Providing municipal deposits with complete insurance coverage will strengthen community banks by placing these banks in a more competitive position to attract municipal deposits. Our nation's independently-operated banks are a valued part of our communities. It is important that these banks are able to maintain their competitiveness and continue providing their communities with their characteristic attention to customer service and investments in local farms and small businesses.

Finally, numerous taxpayers may be at risk municipal funds are placed in a failed bank. Recently, a bank failure in Carlisle, Iowa resulted in the loss of nearly $12 million in uninsured municipal deposits. Even though the state of Iowa has a fund that guarantees the deposits of state and local governments, there was an $8.4 billion shortfall in the fund. Consequently, this shortfall in funds will have to be made up by other Iowa banks.

This is why Senator's JOHNSON and I are introducing ''The Municipal Deposit Insurance Protection Act of 2000.'' The legislation will provide one-hundred percent coverage for municipal deposits will free up bank resources currently used as collateral, enable local, independent banks to attract municipal deposits, and will protect municipal taxpayers from losing uninsured public money. Senator JOHNSON and I look forward to working with our colleagues on this much-need legislation.

By Mr. INHOFE:

S. 3019. A bill to clarify the Federal relationship to the Shawnee Tribe as a distinct Indian tribe, to clarify the status of the members of the Shawnee Tribe, and for other purposes; to the Committee on Indian Affairs.

SHAWNEE TRIBE STATUS ACT OF 2000

Mr. INHOFE. Mr. President, today I introduce a bill that will modify the relationship between the Cherokee Nation in Oklahoma and the Shawnee Tribe in Oklahoma. These two tribes were joined together by an Agreement entered into between them on June 7, 1869. This bill will allow the Shawnee Tribe to have an independent government, elect its own officials and do those things it believes necessary to protect its language, culture and traditions. Since the two tribes will continue to operate in the same territory, the bill sets forth the conditions which shall govern those operations.

This legislation will have the effect of modifying the Cherokee-Shawnee agreement by allowing the Shawnee tribe to operate independently of the Cherokee Nation. The Shawnee Tribe will be governed by a separate constitution currently in existence. Membership of Shawnee Indians will continue to be permitted within the Cherokee Nation, although Shawnee Indians who so elect will become members of the Shawnee Tribe exclusively.

The bill also sets forth the manner in which the Shawnee Tribe will conduct its business within the Cherokee Nation and both Tribes have concurred in this legislation through tribal resolutions of their respective governing bodies. Although the Shawnee Tribe will be operating within the jurisdictional territory of the Cherokee Nation, the Shawnee people believe it is in their best interest to have a separate tribal governance to protect and enhance their culture, language and history and to pursue the goal of self-sufficiency for their own Tribe.

It is important to note that in changing the agreement between these two tribes there is no new tribal territory created nor is it proposed that any additional land be taken into trust for either Tribe as a result of the changes. The jurisdictional area of the tribes remains as before so that there are no impacts on communities within the Cherokee Nation. The proposal is also revenue neutral as to the United States. Tribal members of either tribe now receiving services will continue to receive those services as they have in the past.

The Shawnee Tribe was never terminated nor can the Bureau of Indian Affairs cause the Tribes to be separated through the Federal Acknowledgment Process. The Agreement of 1869 between the two tribes was ratified by the President and can only be amended by this proposed action of Congress.

In summary, this bill would recognize the long standing policy of the United States to respect the sovereignty of every tribe and to respect the desire of the Shawnee people to be governed independently of the Cherokee Nation so that Shawnee people can identify with their own Tribe and work to maintain their culture, language, heritage and traditions.

By Mr. GRAMS (for himself, Mr. BAUCUS, Mr. INHOFE, Mr. GREGG, and Mrs. HUTCHISON):

S. 3020. A bill to require the Federal Communications Commission to revise its regulations authorizing the operation of new, low-power FM radio stations; to the Committee on Commerce, Science, and Transportation.

RADIO BROADCASTING PRESERVATION ACT OF 2000

Mr. GRAMS. Mr. President, I rise today to introduce legislation to address the ongoing dispute between advocates of low power FM radio and full power FM radio broadcasters. I am pleased to be joined in this bipartisan effort by Senators BAUCUS, INHOFE, GREGG, and HUTCHISON. Our legislation, the ''Radio Broadcasting Preservation Act of 2000,'' was overwhelmingly passed by the House of Representatives on April 13th by a vote of 274–110.

On January 20th, the Federal Communications Commission narrowly adopted a proposal that would establish a new radio service known as low power FM radio (LPFM). Under this program, the Commission would license hundreds of new low power FM

radio stations in two classes. The new service would license stations with a maximum power level of 10 watts that would reach an area with a radius of between 1 and 2 miles, and a second class of stations with a maximum power level of 100 watts that would reach an area with a radius of three and a half miles. Although the commission adopted first- and second-adjacent channel interference protections as part of its rulemaking, it chose to allow LPFM stations to be licensed on third-adjacent channels. The FCC began accepting applications for this new service on May 30th.

Over the last several months, I have carefully listened to Minnesotans who care deeply about the issues involved in the debate over LPFM. In the absence of third-adjacent channel protection, incumbent FM broadcasters believe that low power FM radio stations would cause interference to existing radio services. LPFM advocates argue that the Federal Communications Commission has conducted adequate testing for interference and that requiring third adjacent channel protections would unnecessarily limit the number of licensed low power FM radio stations. Further, they suggest that the 1996 Telecommunications Act has resulted in unprecedented concentration within the telecommunications industry.

Although I have many concerns about the impact of LPFM service upon current FM radio broadcasting, I share the commission's stated goal of increasing diversity in radio and television broadcasting. Earlier this Congress, I supported the enactment of the Community Broadcasters Act, which preserves the unique community television broadcasting provided by low power television stations that are operated by diverse groups such as high schools, churches, local government and individual citizens. I also look forward to reviewing the findings and recommendations from the ongoing survey of minority broadcast owners being conducted by the National Telecommunications and Information Administration that will be used to analyze the impact of the 1996 Telecommunications Act upon minority broadcast ownership in the United States.

Mr. President, I am also very mindful of the concerns about LPFM raised by radio reading service programs. In my home state, the State Services for the Blind sponsors the ''Radio Talking Book'' program. Radio Talking Book is a closed-circuit broadcast system which uses FM subcarrier frequencies from radio stations in Minnesota and South Dakota to deliver readings from newspapers, magazines and books on a daily basis to more than 10,000 blind and visually impaired persons. Sub-carrier signals are the most vulnerable to low power FM radio interference because they are located at the outer edge of the frequency space.

I am troubled by the Federal Communications Commission's decision to adopt LPFM without conducting field testing of subcarrier receivers. Nearly eight months after the Commission approved LPFM, engineering studies and field testing of these receivers have not yet been completed by the Commission, and it remains unclear as to how the FCC intends to address interference that may be caused to radio reading services. The agency's inaction underscores the haste in which the LPFM plan was developed and gives credence to the view that the adoption of the FCC rules was a rush to judgment. I ask unanimous consent that letters from Minnesota Public Radio, the Minnesota State Services for the Blind and the International Association of Audio Information Services be inserted into the RECORD at this time.

For these reasons, I am pleased to introduce the ''Radio Broadcasting Preservation Act of 2000.'' I believe this legislation represents the interests of LPFM advocates, full power FM broadcasters, and most importantly—radio listeners. This compromise bill will allow the Federal Communications Commission to license lower power FM radio stations while requiring additional third adjacent channel protections for full power FM broadcasters.

Among its other provisions, the Radio Broadcasting Preservation Act of 2000 would require that an independent party conduct testing in nine FM radio markets to determine whether LPFM without third adjacent channel protections would cause harmful interference to existing FM radio services. The legislation would require the FCC to submit a report to Congress which analyzes the experimental test program results; and evaluates the impact of LPFM on listening audiences, incumbent FM radio broadcasters, minority and small market broadcasters, and radio stations that provide radio reading services to the blind.

Mr. President, some advocates of the low power FM plan adopted by the Commission argue that the Congress should simply allow the agency to move forward on LPFM without any input or modifications from Congress. Those individuals apparently favor granting legislative authority to federal regulatory agencies. Since the establishment of the Federal Communications Commission through an Act of Congress in 1934, members of the House and Senate have consistently exercised appropriate oversight of FCC rules and proposals.

As a member of the Senate, I have carefully monitored the Commission's activities to ensure responsible public policy and the wisest use of taxpayer dollars. Over the last few years, I have expressed my concern over a number of issues considered by the Commission, including satellite television, rights-of-way management, universal service, the impact of digital television rules upon low power television and translator stations, and most recently low power FM radio. Congress should not abdicate its oversight responsibilities when considering the LPFM issue.

Mr. President, I firmly believe that the ''Radio Broadcasting Preservation Act of 2000'' will strengthen community broadcasting without sacrificing existing radio services. I ask unanimous consent that the full text of this bill and additional material be printed in the RECORD and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Radio Broadcasting Preservation Act of 2000''.

SEC. 2. MODIFICATIONS TO LOW-POWER FM REGULATIONS REQUIRED.

(a) THIRD-ADJACENT CHANNEL PROTECTIONS REQUIRED.—

(1) MODIFICATIONS REQUIRED.—The Federal Communications Commission shall modify the rules authorizing the operation of low-power FM radio stations, as proposed in MM Docket No. 99–25, to—

(A) prescribe minimum distance separations for third-adjacent channels (as well as for co-channels and first- and second-adjacent channels); and

(B) prohibit any applicant from obtaining a low-power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934 (47 U.S.C. 301).

(2) CONGRESSIONAL AUTHORITY REQUIRED FOR FURTHER CHANGES.—The Federal Communications Commission may not—

(A) eliminate or reduce the minimum distance separations for third-adjacent channels required by paragraph (1)(A); or

(B) extend the eligibility for application for low-power FM stations beyond the organizations and entities as proposed in MM Docket No. 99–25 (47 CFR 73.853),

except as expressly authorized by Act of Congress enacted after the date of the enactment of this Act.

(3) VALIDITY OF PRIOR ACTIONS.—Any license that was issued by the Commission to a low-power FM station prior to the date on which the Commission modify its rules as required by paragraph (1) and that does not comply with such modifications shall be invalid.

(b) FURTHER EVALUATION OF NEED FOR THIRD-ADJACENT CHANNEL PROTECTIONS.—

(1) PILOT PROGRAM REQUIRED.—The Federal Communications Commission shall conduct an experimental program to test whether low-power FM radio stations will result in harmful interference to existing FM radio stations if such stations are not subject to the minimum distance separations for third-adjacent channels required by subsection (a). The Commission shall conduct such test in no more than nine FM radio markets, including urban, suburban, and rural markets, by waiving the minimum distance separations for third-adjacent channels for the stations that are the subject of the experimental program. At least one of the stations shall be selected for the purpose of evaluating whether minimum distance separations for third-adjacent channels are needed for FM translator stations. The Commission may, consistent with the public interest, continue after the conclusion of the experimental program to waive the minimum distance separations for third-adjacent channels for the stations that are the subject of the experimental program.

(2) CONDUCT OF TESTING.—The Commission shall select an independent testing entity to

conduct field tests in the markets of the stations in the experimental program under paragraph (1). Such field tests shall include—

(A) an opportunity for the public to comment on interference; and

(B) independent audience listening tests to determine what is objectionable and harmful interference to the average radio listener.

(3) REPORT TO CONGRESS.—The Commission shall publish the results of the experimental program and field tests and afford an opportunity for the public to comment on such results. The Federal Communications Commission shall submit a report on the experimental program and field tests to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than February 1, 2001. Such report shall include—

(A) an analysis of the experimental program and field tests and of the public comment received by the Commission;

(B) an evaluation of the impact of the modification or elimination of minimum distance separations for third-adjacent channels on—

(i) listening audiences;

(ii) incumbent FM radio broadcasters in general, and on minority and small market broadcasters in particular, including an analysis of the economic impact on such broadcasters;

(iii) the transition to digital radio for terrestrial radio broadcasters;

(iv) stations that provide a reading service for the blind to the public; and

(v) FM radio translator stations;

(C) the Commission's recommendations to the Congress to reduce or eliminate the minimum distance separations for third-adjacent channels required by subsection (a); and

(D) such other information and recommendations as the Commission considers appropriate.

COMMUNICATION CENTER,
STATE SERVICES FOR THE BLIND,
St. Paul, MN, February 11, 2000.

TO WHOM IT MAY CONCERN: The Communication Center of Minnesota State Services for the Blind, SSB, has provided blind and visually impaired persons with access to the printed word since 1953. The most popular and well-known way we provide our customers with this access is via the Radio Talking Book, RTB. The RTB is a closed-circuit broadcast system which uses FM subcarriers, or SCA's, to bring people readings from newspapers, magazines and books, 24 hours a day, seven days a week. We loan our customers special SCA receivers, which only pick up the RTB signal.

The RTB, this nation's oldest and largest radio reading service for the blind, was founded in 1969 and has over 10,000 users in Minnesota alone. It is also picked up by other radio reading services around the country, for rebroadcast, via satellite.

We rely on the SCA frequencies of approximately 40 radio stations in Minnesota and South Dakota, to distribute our programming to local listeners. Approximately 20 stations used by us are operated by Minnesota Public Radio, MPR. Further, the MPR stations we use are our main outlets. The other stations we use are smaller and/or cover sparsely populated areas. Consequently, the Radio Talking Book lives and dies via the technical integrity and success of MPR.

While we support the principles of diversity and community access for all, we cannot support these goals at the expense of existing services. As you know, the Federal Communications Commission, FCC, intends to create at least 1000 low-power FM stations across the country. However, it is my understanding that they have not tested the effects and implications of these new services on existing FM SCA signals. This does not seem right to us. Prior to authorizing a new set of services, it seems to us, that you should know all the implications to existing services.

Since the sub-carrier signal of an FM station is located on the outside edge of its frequency space, it seems logical to us that these are the signals which will receive the first, and most harmful interference from new, untested signals. We strongly urge the FCC to do more testing prior to proceeding with the creation of new low-power FM services. Further, it seems even more advisable to use to not create such a new service at all prior to making long-term decisions about digital broadcasting. The FCC may be creating a new service that will be obsolete in a few years.

While we understand that the FCC must respond to a variety of constituencies, their decision which doesn't adequately consider the needs of SCA users, the majority of whom are users of radio reading services, seems to be highly disrespectful to blind and visually impaired persons. We urge the FCC to reconsider its low-power FM policy. Thank you very much for your consideration of our concerns.

Respectfully yours,

DAVID ANDREWS,
Director, Communication Center.

MINNESOTA PUBLIC RADIO,
St. Paul, MN, September 6, 2000.

Senator ROD GRAMS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR GRAMS: Minnesota Public Radio supports your efforts to protect high quality signal integrity for America's radio listening public. Recent action by the Federal Communications Commission will cause harm to the broadcast signal of existing stations and interfere with their ability to serve their listeners. Your legislation, a bipartisan compromise, will protect the rights of the listening public to receive the highest quality signal available.

In addition to protecting the general listening public, your legislation will protect a particularly vulnerable segment of the radio listening public, the blind and visually impaired.

More than 1 million blind and visually impaired people in the United States are served by the joint efforts of radio reading services and public radio stations. This service is now threatened by a well meaning but highly politicized action of the FCC.

Started in Minnesota in 1969 as Radio Talking Book (RTB) by the joint effort of Minnesota Public Radio and the Minnesota Services for the Blind, radio reading services have grown to more than 100 locally controlled and operated reading services around the country. They bring newspapers, magazines and books into the lives of those who can't see by the use of an FM radio subcarrier, or SCA. The SCA uses a sliver of the FM signal, and basically ''piggybacks'' onto the regular FM frequency. Reading service customers receive a special radio receiver, which picks up only the SCA broadcast.

The FCC in January approved rules to add more local public service broadcasting to America's airwaves. Unfortunately, it rescinded decades-old protections given existing broadcasters and the listening public. The removal of those protections will, most certainly, cause interference to the broadcast signal that are currently being delivered by the nation's radio reading services.

Many in this country, including Minnesota Public Radio, support the goal of licensing more locally owned low-power FM stations. They would be a welcome addition to the voices and opinions heard on the air. However, when government deals with trying to solve problems, it should learn from the medical profession's Hippocratic Oath: First do no harm. Your legislation helps solve the problem of additional voices and does no harm to America's general listening public and specifically the services of Radio Reading Services.

Attached is an Opinion piece from the Fergus Falls Daily Journal as well as a letter in opposition to the FCC decision by the Minnesota Services for the Blind.

Congratulations to taking on this important issue for the benefit of the people of Minnesota.

Sincerely yours,

WILL HADDELAND,
Senior Vice President.

INTERNATIONAL ASSOCIATION OF
AUDIO INFORMATION SERVICES,
Pittsburgh, PA, May 20, 2000.

Senator ROD GRAMS,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GRAMS: We are writing to ask for your help in the urgent matter of Low Power FM service that is being rushed into place by the FCC. There are millions of Americans that may be dramatically and negatively impacted by these new stations. They are blind, visually impaired, or have a disability that prevents them from reading. Our association members serve them with reading services on the radio, and other print-to-audio services.

A reading service on the radio is the daily newspaper for these men and women. It's where they learn what is on sale at the local grocery store, what bus stops have changed in their town, and who passed away. Without this valuable link to their community, they are at grave risk of being isolated and become very dependent.

Our association of these reading services, IAAIS, has asked the FCC to ensure that reading services for the blind not suffer interference from the coming new Low Power FM stations. IAAIS is very concerned that the fragile sub-carrier services will not be heard clearly when a low power FM station is allowed in the 2nd adjacent space on the FM dial. The radios we have to use to give blind listeners access to the signals have very fragile reception characteristics. The FCC's plan for low power stations brings a potential of interference that never existed before.

We've taken radios from our members and supplied them to the FCC for testing. These are the same special radios blind listeners must use to hear the services. This entire class of radio was not tested before the FCC authorized LPFM—so no one knows if an LPFM station will impair the blind listeners ability to hear their reading service. That's what really concerns us.

The FCC does not know if Low Power stations will harm our services, yet it is proceeding with the plans for implementation. We think that's wrong and have asked them to wait until the tests are done. In spite of our request and others' at the end of this month, the FCC plans to begin the application process to create Low Power stations. There need be no rush. We think the FCC should at least wait for the results of receiver tests before starting something that might have devastating consequences.

We've also asked the FCC for a description of the procedure they will use to resolve interference that occurs after Low Power FM is implemented. They have given no indication that they have such a procedure. We find this alarming to say the least.

For all these reasons, we've endorsed the measures outlined in the compromise legislation passed by the House in April, HR3439. With the slow down in implementation and test roll-out of low power sites that the bill affords, we feel there will be a better chance that Low Power FM can be implemented without damage to reading services for the blind.

We hope you'll help by supporting a Senate measure that will echo the intentions of House Bill 3439. The Bill will buy time while tests are completed. These test results, and the procedure for resolving problems must be published before adding new radio stations. It would help to ensure that the listeners to reading services do not suffer the loss of their ability to read a newspaper . . . for the second time.

Sincerely,

DAVID W. NOBLE,
President.

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. DODD, and Mrs. FEINSTEIN):

S. 3021. A bill to provide that a certification of the cooperation of Mexico with United States counterdrug efforts not be required in fiscal year 2001 for the limitation on assistance for Mexico under section 490 of the Foreign Assistance Act of 1961 not to go into effect in that fiscal year.

MEXICAN DECERTIFICATION MORATORIUM

Mrs. HUTCHISON. Mr. President, I send a bill to the desk. I submit this bill on behalf of myself, Senator DOMENICI, Senator DODD, and Senator FEINSTEIN.

The purpose of the bill is to put a 1-year moratorium on the decertification process for Mexico as it relates to the illegal drug trafficking issue that we have been dealing with for so long. The reason we are introducing this bill and hope for expedited procedures is that we have just seen a huge election in Mexico in which, for the first time in 71 years, there is a president from the opposition party, from the PRI, which has been the ruling party in Mexico all this time.

Democracy is beginning to be real in Mexico, and we want to do everything we can to encourage this democracy. We want to do everything we can to have good relations, better relations, with our sister country to the south, Mexico.

Vicente Fox has visited the United States. He has opened the door for better relations. I know our next President, whoever he may be, will also want to do the same thing.

It is a very simple bill. It is a bill that says for 1 year we are not going to go through the certification-decertification process, and hopefully our two new Presidents will begin a new era of cooperation in this very tough issue that plagues both of our countries. Having a criminal element in Mexico and a criminal element in the United States certainly is a cancer on both of our countries, and we want to do everything we can to improve the cooperation in combating this issue.

The inauguration of Vicente Fox as President of Mexico on December 1st should usher in a sea change in Mexican politics as well as the U.S.-Mexico relationship. Not only will 71 years of rule by the Institutional Revolutionary Party (PRI) come to an end, but hopefully so too will come an end to the flood of illegal drugs from Mexico into the U.S.

Despite the promise of a new day in our relationship with Mexico, a dark cloud looms on the horizon—the annual drug certification ritual in which Congress requires the President to ''grade'' drug-producing and drug-transit countries each March 1 on their progress in the war on drugs.

The facts have remained essentially unchanged over the past several years. Mexico is the source of about 20–30% of the heroin, up to 70% of the foreign grown marijuana, and the transit point for 50–60% of the cocaine shipped into the United States.

Mexico has never been decertified, but the thought of being in the company of Iran, Iraq, and Afghanistan on this list, has done little except to antagonize their political leadership and thwart expanded cooperation. There is no reason to go through this exercise next March and grade President Fox after fewer than 120 days in office. Further, with a new U.S. President taking office on January 20, there is no reason to set up a major confrontation between the two before they have even had an opportunity to work together cooperatively.

I am proud to introduce legislation with Senators PETE DOMENICI, CHRISTOPHER DODD, and DIANNE FEINSTEIN which will grant Mexico a 1-year waiver from the annual certification process. I hope the Congress will pass this waiver legislation before we adjourn.

This 1-year waiver will give President Fox the time he needs to develop and implement a new drug-fighting strategy in Mexico. And it will give the United States the time we need to work with President Fox in the creation of this new strategy, and to finally put in place the law enforcement needed to stop the flow of drugs across our 2000-mile shared border.

The United States has enjoyed a long-term partnership with Mexico that has grown closer and more cooperative over time. The North American Free Trade Agreement cemented and strengthened our relationship—and our interdependence. Just last year, Mexico surged past Japan as our nation's second largest trade partner.

But partnership is a two-way exchange, and in recent years we have drifted into tolerance of unacceptable conditions in the arena of drug trafficking and the endemic corruption it causes in communities on both sides of the border. The border has been a sieve for drugs, and it has resulted in a degree of lawlessness in Texas and along the U.S.-Mexico border that we have not seen since the days of the frontier. Even worse, the war on drugs plays out daily on nearly every schoolyard across our nation.

I am more optimistic than ever, though, by the election of Vicente Fox, that Mexico is prepared to make the sacrifices necessary to contain the drug threat. And as he seeks to make progress on this almost overwhelming issue, we do not need to poison the spirit of early cooperation by injecting drug certification.

Specifically, this bill waives for one-year only the requirement that the President certify Mexico's cooperation with the United States in the war on drugs. This waiver does not exempt Mexico from any of the reports or other activities associated with the certification process. It simply says the President does not need to ''grade'' Mexico by choosing between certification, decertification, or decertification with a national interest waiver.

This 1-year drug certification waiver will give both the United States and Mexico time to develop a process that will make us partners rather than adversaries in addressing the one issue that can make moot all of the promising opportunities between our two nations.

Still, President-elect Fox and the Government of Mexico should make no mistake about the priority the United States places on winning the war on drugs. We will expect this to be a top priority of our new President, and we hope that this will be a priority of President Fox.

The Mexican government must take effective, good-faith steps to stop the narco-corruption that infects and demoralizes both of our countries. We ask them to take effective action to destroy the major drug cartels and imprison their kingpins, implement laws to curtail money laundering, comply with U.S. extradition requests, increase interdiction efforts and cooperate with U.S. law enforcement agencies.

President-elect Fox has shown every willingness to work with the United States in developing these objectives. He knows the challenges ahead, and especially the ones that will come as Mexico's democracy continues to evolve and be tested. The United States should not add the pressures of the certification process next year to a situation so full of risks and opportunities.

Mr. DOMENICI. Mr. President, I commend Senator HUTCHISON, along with Senators DODD and FEINSTEIN for introducing this bill today. I am pleased to join in this effort.

The election of Vicente Fox as President of Mexico is a remarkable event in the history of our neighbor to the south.

After 71 years of rule by the Institutional Revolutionary Party, Mexico is about to embark on an important test of its new democracy.

Mr. Fox has spoken very eloquently and persuasively in recent weeks and he has offered some interesting new ideas on critical issues which affect both of our countries, like immigration, trade and controlling illegal drugs.

Some of his ideas are quite impressive, and they certainly will spur debate both in the United States and in Mexico.

I think it is important for our leaders in the United States, particularly those in the border region, to engage Mr. Fox, talk with him, listen to his ideas and offer our own thoughts to him.

In this spirit of cooperation and acceptance, I think it is critical for the United States to suspend the drug certification process for Mexico this coming year.

Mr. Fox needs time to build his administration, and to develop his own plan for dealing with the drug cartels.

As we all know, the history of drug cooperation between the United States and Mexico has not been great.

Mexico remains the source of 70 percent of the foreign grown marijuana in the U.S., 50–60 percent of the cocaine and 25–30 percent of the heroin.

In recent months, our federal law enforcement authorities have dismantled a major heroin ring operating out of Nayarit, Mexico, which was responsible for much of the black tar heroin in the Southwest.

It is this heroin which has torn apart the northern New Mexico county of Rio Arriba, which has the highest per capita heroin overdose rate in the Nation.

President-elect Fox has said that he will redouble his country's efforts to fight the drug cartels, and will increase the number of criminals extradited to the United States to stand trial.

I have fought for years for more extraditions, and I am pleased that President Fox shares my goal.

I want to give Mr. Fox time to prove that he means what he says. Engaging in the certification process in March of 2001, within only 120 days of Mr. Fox's first day in office, will only serve as a hindrance to developing mutual cooperation between the two new administrations.

The bill we have introduced today merely waives for one year the requirement that the President make a certification decision about Mexico.

This waiver would not exempt Mexico from any of the annual reports or other activities associated with the certification process, including review by the State Department in its annual report to Congress.

It simply says that the next United States President need not grade Mexico and its new President in his first four months in office by choosing between certification, decertification or certification through a national interest waiver.

Mr. Fox should make no mistake—Senators from the Southwest care deeply about the drug problem, which affects our communities, courts, jails, hospitals and border region like no other issue.

We expect Mr. Fox to set concrete, measurable goals and timetables for crippling the drug cartels and ending narco-corruption.

This is a fair bill, one that respects the new democracy in Mexico, and recognizes that the new administration needs time to set its own agenda.

I look forward to working with my colleagues in the Senate and the new President of Mexico on this and other important issues of mutual interest between our two countries.

Mr. DODD. Mr. President, I commend my friend from Texas for this proposal. I am pleased to be a cosponsor of it, along with the Senator from New Mexico, Senator DOMENICI, and Senator FEINSTEIN from California. We hope others will join us and will soon be circulating a dear colleague letter inviting them to do so.

We believe that this is a very sensible and timely proposal in light of the dramatic changes that have occurred this past July 2 with the election of Vincente Fox, candidate for the National Action Party, as the next President of Mexico. His inauguration later this year will bring to an end 71 years of the office of the Mexican President being held by a representative of the Institutional Revolutionary Party. Clearly President-elect Fox has an enormous task before him to put in place his new administration and to formulate policies and programs that he believes are consistent with his campaign promises and priorities. Among the many issues that he has suggested will be priorities of his administration is enhanced counter narcotics cooperation with the United States.

I have made no secret of the fact that I believe that the annual unilateral drug certification procedures have been an obstacle to furthering cooperation between U.S. and Mexican law enforcement authorities. Rather than encouraging them to work closely together to thwart the corrupting impact of the drug kingpins in the United States and Mexico, the certification process degenerates annually to a shouting match across our southern border with respect to whether the Mexican government has done enough to warrant a passing grade from us on the counter narcotics front. Needless to say, Mexican officials resent the fact the they are being unilaterally graded on their performance by us while U.S. policies and programs are never subject to similar review or criticism.

Frankly, Mr. President, this year elections on both sides of the border give us an opportunity to start afresh with respect to counter narcotics cooperation next year. By suspending the certification process for FY 2001, the climate for working more closely on these important programs will not be soured right off the bat by the March 1 grading of Mexico. It is my hope that the new U.S. and Mexican administrations will make it a high priority in the early days of their administrations to put forward a joint plan for ensuring enhanced cooperation on counter narcotics issues that will replace the existing and counterproductive unilateral annual certification process with a multilateral mechanism to monitor progress in combating drug trafficking and related crimes in all affected countries. I would certainly be prepared to support an additional suspension of the certification process for a second year if additional time is needed to put in place a multilateral mechanism to ensure that international cooperation on such matters is working.

Mr President, this is an extremely important issue for not only Mexico and the United States both for countries throughout this hemisphere. Certainly we need to address the problem of consumption here at home. Our neighbors in this hemisphere, that are either involved in the production, in the chemical transformation of these products, or the transportation or the money laundering have a different set of issues to address in our joint efforts to reduce both production and consumption of illicit drugs. It is vital that there be a high level of cooperation if we are going to be successful in stemming the tide and flow of narcotics that pour into this country, that result in the deaths of 50,000 Americans every year in drug-related deaths in this country. I believe that the certification procedures are impeding that kind of cooperation. We believe that the legislation we have introduced this evening will improve the prospects that this will be done. I would hope that all of our colleagues will join us in endorsing this approach.

Mrs. FEINSTEIN. Mr. President, I rise today to offer my support to the legislation introduced by my distinguished colleague from Texas, Senator HUTCHISON.

Essentially, this bill would—for 1 year only—suspend the certification process with respect to Mexico.

It is my hope that this one-year hiatus will be viewed as a sign of good faith between our nations, and that our two countries will dramatically increase the level of our cooperation in the coming year. The problem of drugs is as serious as any we face, and only with a true partnership with Mexico and other source countries can we hope to succeed in the battle against illegal narcotics.

Mr. President, let me be very clear—my support for this legislation this year should not be taken as a sign that I am any less concerned with the rampant corruption and increasingly serious problem of illegal narcotics flowing from Mexico into the United States. I sincerely hope that President-elect Fox and the government of Mexico will with innovation and commitment launch a new and effective war against the cartels that are currently of unparalleled strength and viciousness.

The Zedillo administration has made some progress in cooperating with the United States in this fight.

For instance, the Zedillo administration:

Allowed, for the first time, the extradition of two Mexican Nationals on

drug charges—although these were lower level participants in the drug trade. This is a beginning, but just that—there is still a long way to go.

Fired more than 1400 of 3500 federal police officers for corruption; and so far, more than 350 officers have been prosecuted.

Cooperated with the FBI late last year in an investigation on Mexican soil.

And greatly increased seizures of illegal narcotics.

On the other hand, not nearly enough has been done:

Mexico is still the conduit to as much as 70% of the cocaine consumed in the United States (much of it originating in Colombia);

Mexico supplies the majority of marijuana to the U.S., and, according to the United States Forest Service, Mexican cartels are now sending people across the border to grow marijuana in our national forests and on other federal lands;

Despite recent successes in disrupting methamphetamine production in Mexico, the meth cartels are now increasingly setting up meth labs in the United States;

To date, not one major drug kingpin of Mexican nationality has yet been extradited to this country, nor has a major kingpin even been arrested, with the exception of the Amezcua brothers, currently in jail, while the Mexican government decides whether to extradite. Until the cartel leaders are arrested, tried, convicted and imprisoned, there can be no real improvement.

In the meantime, Mexican drug cartels are becoming ever more vicious. Tijuana, for instance recently saw its second police chief gunned down in less than 6 years, as dozens of judges, prosecutors and drug agents have been killed in Tijuana alone in recent years.

Last April, the bodies of two Mexican drug agents and a special prosecutor for the Mexican Attorney General's anti-narcotics unit were found in such a mangled state that identification—even by the spouse of one of the agents—was impossible. According to press accounts, one investigator who saw the photographs of the crime scene said ''They told me it was a body. I've never seen anything like that.''

The Arellano Felix organization is responsible for many of these crimes. They hold such a strong grip over their community that former DEA Administrator Thomas Constantine recently said that ''in Tijuana and Baja, they have become more powerful than the instruments of government in Mexico.''

The Arellano Felix cartel operates with an estimated one million dollars in bribe money every day. With that money they pay law enforcement to look the other way, prosecutors to leave them alone, judges to let them go free, and for information about their enemies.

This leads to the largest single threat in this war against drugs—the level of corruption within Mexican law enforcement and even extending into this country. Honest law enforcement officers cannot know who to trust. Anyone who gets too close to capturing cartel members is subject to exposure and assassination. And the cycle of corruption and failure continues.

The corruption is evident at all levels of Mexican law enforcement, and this is a problem that can only be solved through a concerted, comprehensive effort on the part of the Fox administration.

Until the history of corruption is reversed and the drug cartels are brought to justice, this nation will have no respite from the scourge of drugs flowing across our borders.

I cosponsor this legislation today as an experiment to see that, if by putting aside the contentiousness of a certification debate next March, there can be a new, more productive process. I will follow this closely. If reports do not reflect substantial, positive change, we will know clearly that decertification may be the only course.

I thank the Chair, and I yield the floor.

Mrs. HUTCHISON. Mr. President, if Senator DOMENICI would yield for 1 more minute, I would like to, first of all, thank him for allowing us the time to introduce this bill. If we are going to be able to pass this by the end of the session, it is imperative that we get the bill into the process. I also thank the Senator from New Mexico, the Senator from Connecticut, and the Senator from California for being prime cosponsors because this will show the Mexican people and the new President-elect of Mexico that we do want cooperation.

I believe it is in our long-term best interests that we develop trade relationships with our neighbor to the south, that we work with them on investments because as we increase the standard of living in Mexico, I think many of the immigration problems and the problems dealing with illegal drugs will also be wiped away.

So this is a new era. I think this bill will signal that we do want cooperation and friendship. I have high hopes for President-elect Vincente Fox. I have high hopes that our new President will focus on this issue as well, to try to come up with a whole new process beyond certification and decertification, which certainly has not worked very well in the past.

I yield the floor.

ADDITIONAL COSPONSORS

S. 385

At the request of Mr. ENZI, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 385, a bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes.

S. 741

At the request of Mr. GRAHAM, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 741, a bill to provide for pension reform, and for other purposes.

S. 1805

At the request of Mr. KENNEDY, the names of the Senator from California (Mrs. BOXER) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1805, a bill to restore food stamp benefits for aliens, to provide States with flexibility in administering the food stamp vehicle allowance, to index the excess shelter expense deduction to inflation, to authorize additional appropriations to purchase and make available additional commodities under the emergency food assistance program, and for other purposes.

S. 2029

At the request of Mr. FRIST, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 2029, a bill to amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

S. 2061

At the request of Mr. BIDEN, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 2061, a bill to establish a crime prevention and computer education initiative.

S. 2272

At the request of Mr. DEWINE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2272, a bill to improve the administrative efficiency and effectiveness of the Nation's abuse and neglect courts and for other purposes consistent with the Adoption and Safe Families Act of 1997.

S. 2274

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2274, a bill to amend title XIX of the Social Security Act to provide families and disabled children with the opportunity to purchase coverage under the medicaid program for such children.

S. 2438

At the request of Mr. MCCAIN, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Virginia (Mr. ROBB) were added as cosponsors of S. 2438, a bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

S. 2572

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 2572, a bill to amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes.

S. 2580

At the request of Mr. JOHNSON, the name of the Senator from Colorado

(Mr. CAMPBELL) was added as a cosponsor of S. 2580, a bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes.

S. 2641

At the request of Mr. CLELAND, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Washington (Mrs. MURRAY) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 2641, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 2689

At the request of Ms. LANDRIEU, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Nebraska (Mr. KERREY) were added as cosponsors of S. 2689, a bill to authorize the President to award a gold medal on behalf of Congress to Andrew Jackson Higgins (posthumously), and to the D-day Museum in recognition of the contributions of Higgins Industries and the more than 30,000 employees of Higgins Industries to the Nation and to world peace during World War II.

S. 2733

At the request of Mr. SANTORUM, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2733, a bill to provide for the preservation of assisted housing for low income elderly persons, disabled persons, and other families.

S. 2735

At the request of Mr. CONRAD, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2735, a bill to promote access to health care services in rural areas.

S. 2787

At the request of Mr. DOMENICI, his name was added as a cosponsor of S. 2787, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 2837

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2837, a bill to amend the Fair Debt Collection Practices Act to reduce the cost of credit, and for other purposes.

S. 2841

At the request of Mr. ROBB, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2841, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. 2858

At the request of Mr. GRAMS, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2858, a bill to amend title XVIII of the Social Security Act to ensure adequate payment rates for ambulance services, to apply a prudent layperson standard to the determination of medical necessity for emergency ambulance services, and to recognize the additional costs of providing ambulance services in rural areas.

S. 2868

At the request of Mr. KENNEDY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2868, a bill to amend the Public Health Service Act with respect to children's health.

S. 2931

At the request of Mr. MURKOWSKI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2931, a bill to make improvements to the Arctic Research and Policy Act of 1984.

S. 2938

At the request of Mr. BROWNBACK, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Missouri (Mr. ASHCROFT), the Senator from Kentucky (Mr. BUNNING), and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2938, a bill to prohibit United States assistance to the Palestinian Authority if a Palestinian state is declared unilaterally, and for other purposes.

S. 2977

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2977, a bill to assist in the establishment of an interpretive center and museum in the vicinity of the Diamond Valley Lake in southern California to ensure the protection and interpretation of the paleontology discoveries made at the lake and to develop a trail system for the lake for use by pedestrians and nonmotorized vehicles.

S. 3009

At the request of Mr. HUTCHINSON, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 3009, a bill to provide funds to the National Center for Rural Law Enforcement.

S.J. RES. 50

At the request of Mr. CRAPO, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S.J. Res. 50, a joint resolution to disapprove a final rule promulgated by the Environmental Protection Agency concerning water pollution.

S. RES. 339

At the request of Mr. REID, the names of the Senator from Virginia (Mr. WARNER), the Senator from Nevada (Mr. BRYAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. DURBIN), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. Res. 339, a resolution designating November 18, 2000, as ''National Survivors of Suicide Day.''

S. RES. 340

At the request of Mr. REID, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Delaware (Mr. BIDEN), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. Res. 340, a resolution designating December 10, 2000, as ''National Children's Memorial Day.''

S. RES. 342

At the request of Mr. THURMOND, the names of the Senator from Michigan (Mr. ABRAHAM), the Senator from Missouri (Mr. ASHCROFT), the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from Montana (Mr. BURNS), the Senator from Rhode Island (Mr. L. CHAFEE), the Senator from Georgia (Mr. CLELAND), the Senator from Mississippi (Mr. COCHRAN), the Senator from North Dakota (Mr. CONRAD), the Senator from Connecticut (Mr. DODD), the Senator from New Mexico (Mr. DOMENICI), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Illinois (Mr. FITZGERALD), the Senator from Florida (Mr. GRAHAM), the Senator from Texas (Mr. GRAMM), the Senator from Minnesota (Mr. GRAMS), the Senator from Iowa (Mr. GRASSLEY), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Florida (Mr. MACK), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Kansas (Mr. ROBERTS), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Alabama (Mr. SHELBY), the Senator from New Hampshire (Mr. SMITH), the Senator from Tennessee (Mr. THOMPSON), the Senator from Virginia (Mr. WARNER), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. Res. 342, a resolution designating the week beginning September 17, 2000, as ''National Historically Black Colleges and Universities Week.''

S. RES. 343

At the request of Mr. FITZGERALD, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. Res. 343, a resolution expressing the sense of the Senate that the International Red Cross and Red Crescent Movement should recognize and admit to full membership Israel's Magen David Adom Society with its emblem, the Red Shield of David.

AMENDMENT NO. 4024

At the request of Mr. DOMENICI, his name was added as a cosponsor of Amendment No. 4024 proposed to H.R. 4733, a bill making appropriations for

energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 4047

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 4047 proposed to H.R. 4733, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

At the request of Mr. GRAMM, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Indiana (Mr. LUGAR), and the Senator from Nebraska (Mr. KERREY) were added as cosponsors of amendment No. 4047 proposed to H.R. 4733, supra.

AMENDMENT NO. 4070

At the request of Mr. DOMENICI, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of amendment No. 4070 proposed to H.R. 4733, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 4071

At the request of Mr. DOMENICI, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of amendment No. 4071 proposed to H.R. 4733, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 4072

At the request of Mr. STEVENS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of amendment No. 4072 proposed to H.R. 4733, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 4073

At the request of Mr. STEVENS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of amendment No. 4073 proposed to H.R. 4733, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 4076

At the request of Mr. DOMENICI, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 4076 proposed to H.R. 4733, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 4078

At the request of Mr. DOMENICI, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 4078 proposed to H.R. 4733, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 4085

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 4085 proposed to H.R. 4733, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

AMENDMENT NO. 4088

At the request of Mr. SMITH of Oregon, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of amendment No. 4088 proposed to H.R. 4733, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

SENATE RESOLUTION 349—TO DESIGNATE SEPTEMBER 7, 2000, AS ''NATIONAL SAFE TELEVISION FOR ALL-AGES DAY''

Mr. HUTCHINSON submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 349

Whereas modern communication has made television a central reality in the lives of most Americans and one of the most pervasive socializing instruments in American culture;

Whereas family members and American citizens of all ages view an average of 17 hours of television per week;

Whereas there is a general consensus among researchers and the American public that violence on television correlates to violent and aggressive behavior in children and teenagers;

Whereas violent and antisocial behavior in American culture have increased as television depictions of violent actions and destructive attitudes have become more elaborate and more common place in television programming;

Whereas television programming portraying responsible conflict resolution and positive, meaningful role models have a profound impact on the values that influence American culture;

Whereas family oriented programming reinforces positive attitudes and sound cultural values in our homes, schools, and communities; and

Whereas the values and attributes portrayed in family oriented programming promote positive social change and movement away from the social apathy and moral deterioration which are currently promoted by a wide variety of media sources: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 7, 2000, as ''National Safe Television for All-Ages Day''; and

(2) urges all citizens to observe ''National Safe Television for All-Ages Day'' by encouraging family and community members to advocate for socially responsible television and area broadcasting that offers such programming.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that I be recognized to speak for 5 minutes as if in Morning Business. Mr. President, I rise to introduce a resolution which designates September 7th of each year as ''National Safe TV for All-Ages Day.'' On September 7, 1927, Philo Farnsworth, a young 21-year-old inventor in San Francisco, transmitted the first all-electronic television picture. By the time he died in 1971, Philo Farnsworth's invention had become one of the greatest innovations of the 20th Century.

Today, the modern television plays a central role in entertaining untold millions world-wide, and no where has it made more of an impact on society than in the United States. Television has become a fixture in almost every home. Americans view an average of 17 hours of television per week. This medium enjoys unprecedented access into the American home. Sadly, this access to the family has been abused as scenes of overtly violent and sexual acts on television have been on the rise for decades. As a result, there is a general consensus among researchers and the American public that violence on television correlates to violent and aggressive behavior in children and teenagers.

Given the continued rise of this negative behavior in American society—especially among young people—parents, teachers, law enforcement officials, sociologists, and politicians are looking for ways to fight back. That is why I have publicly encouraged television executives and movie makers to take responsibility for the impact their programming and movies are having on viewers, regardless of age. While the entertainment industry continues to market violence, families must decide how to protect against a barrage of negative images.

My resolution encourages families and viewers of all-ages to turn off the overtly violent and sexual programming and turn to safe, family oriented programming which reinforces positive attitudes and sound cultural values in our homes, schools, and communities. Television programming which portrays responsible conflict resolution and positive, meaningful role models has a profound impact on the values that influence American culture.

It is my hope that parents take matters into their own hands by making September 7th the day families use the remote control to send a message to the television executives that violent programming is not wanted in our homes. It is my sincere hope that more Americans consider what kind of cumulative affect negative television programming has on families. I encourage my colleagues to cosponsor this measure and support safe TV for all ages. Mr. President, I yield the floor.

AMENDMENTS SUBMITTED

U.S.-CHINA RELATIONS ACT OF 2000

WELLSTONE (AND OTHERS) AMENDMENTS NOS. 4114

Mr. WELLSTONE (for himself Mr. HELMS, and Mr. FEINGOLD) proposed an amendment to the bill (H.R. 4444) to authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China, and to establish a framwork for relations between the United States and the People's Republic of China; as follows:

On page 4, line 22, beginning with ''Prior'', strike all through page 5, line 6, and insert the following:

Prior to making the determination provided for in subsection (a)(1), the President shall transmit a report to Congress certifying that—

(1) pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999; and

(2) following the recommendations of the United States Commission on International Religious Freedom, the People's Republic of China has made substantial improvements in respect for religious freedom, as measured by the fact that—

(A) the People's Republic of China has agreed to open a high-level and continuing dialogue with the United States on religious-freedom issues;

(B) the People's Republic of China has ratified the International Convention on Civil and Political Rights, which it has signed;

(C) the People's Republic of China has agreed to permit the United States Commission on International Religious Freedom and international human rights organizations unhindered access to religious leaders, including those imprisoned, detained, or under house arrest;

(D) the People's Republic of China has responded to inquiries regarding persons who are imprisoned, detained, or under house arrest for reasons of religion or belief, or whose whereabouts are not known, although they were last seen in the custody of Chinese authorities; and

(E) the People's Republic of China has released from prison all persons incarcerated because of their religion or beliefs.

On page 5, line 10, strike ''section 101(a)'' and insert ''section 101''.

BYRD (AND FEINGOLD) AMENDMENT NO. 4115

(Ordered to lie on the table.)

Mr. BYRD (for himself, and Mr. FEINGOLD) submitted an amendment intended to be proposed by them to the bill, H.R. 4444, supra; as follows:

On page 69, after line 16, insert the following:

SEC. 702. UNITED STATES SUPPORT FOR THE TRANSFER OF CLEAN ENERGY TECHNOLOGY AS PART OF ASSISTANCE PROGRAMS WITH RESPECT TO CHINA'S ENERGY SECTOR.

(a)(1) the People's Republic of China faces significant environmental and energy infrastructure development challenges in the coming century;

(2) economic growth and environmental protection should be fostered simultaneously;

(3) China has been recently attempting to strengthen public health standards, protect natural resources, improve water and air quality, and reduce greenhouse gas emissions levels while striving to expand its economy;

(4) the United States is a leader in a range of clean energy technologies; and

(5) the environment and energy infrastructure development are issues that are equally important to both nations, and therefore, the United States should work with China to encourage the use of American-made clean energy technologies.

(b) SUPPORT FOR CLEAN ENERGY TECHNOLOGY.—Notwithstanding any other provision of law, each department, agency, or other entity of the United States carrying out an assistance program in support of the activities of United States persons in the environment and energy sector of the People's Republic of China shall support, to the maximum extent practicable, the transfer of United States clean energy technology as part of that program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of the People's Republic of China.

BYRD AMENDMENTS NOS. 4116–4117

(Ordered to lie on the table.)

Mr. BYRD submitted two amendments intended to be proposed by him to the bill, H.R. 4444, supra; as follows:

AMENDMENT NO. 4116

Beginning on page 16, strike line 11 and all that follows through line 2 on page 17 and insert the following:

''(k) STANDARD FOR PRESIDENTIAL ACTION.—

''(1) FINDINGS.—Congress finds that—

''(A) market disruption causes serious harm to the United States industrial and agricultural sectors which has grave economic consequences;

''(B) product-specific safeguard provisions are a critical component of the United States-China Bilateral Agreement to remedy market disruptions; and

''(C) where market disruption occurs it is essential for the Commission and the President to comply with the timeframe stipulated under this Act.

''(2) TIMEFRAME FOR ACTION.—Not later than 15 days after receipt of a recommendation from the Trade Representative under subsection (h) regarding the appropriate action to take to prevent or remedy a market disruption, the President shall provide import relief for the affected industry pursuant to subsection (a), unless the President determines and certifies to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that provision of such relief is not in the national economic interest of the United States or, in extraordinary cases, that taking action pursuant to subsection (a) would cause serious harm to the national security of the United States.

''(3) BASIS FOR PRESIDENTIAL CERTIFICATION.—The President may determine and certify under paragraph (2) that providing import relief is not in the national economic interest of the United States only if the President finds that taking such action would have an adverse impact on the United States economy clearly greater than the benefits of such action.

''(4) AUTOMATIC RELIEF.—

''(A) IN GENERAL.—If, within 70 days after receipt of the Commission's report described in subsection (g), the President and the United States Trade Representative have not taken action with respect to denying or granting the relief recommended by the Commission, the relief shall automatically take effect.

''(B) PERIOD RELIEF IN EFFECT.—The relief provided for under subparagraph (A) shall remain in effect without regard to any other provision of this section.

AMENDMENT NO. 4117

On page 53, between lines 3 and 4, insert the following:

SEC. 402. PRC COMPLIANCE WITH WTO SUBSIDY OBLIGATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) A significant portion of the economy of the People's Republic of China consists of state-owned enterprises.

(2) Chinese state-owned enterprises receive significant subsidies from the Government of the People's Republic of China.

(3) These Chinese state-owned enterprises account for a significant portion of exports from the People's Republic of China.

(4) United States manufacturers and farmers should not be expected to compete with these subsidized state-owned enterprises.

(b) COMMITMENT TO DISCLOSE CERTAIN INFORMATION.—The United States Trade Representative—

(1) acting through the Working Party on the Accession of China to the World Trade Organization, shall obtain a commitment by the People's Republic of China to disclose information—

(A) identifying current state-owned enterprises engaged in export activities;

(B) describing state support for those enterprises; and

(C) setting forth a time table for compliance by the People's Republic of China with the subsidy obligations of the World Trade Organization; and

(2) shall vote against accession by the People's Republic of China to the World Trade Organization without such a commitment.

(c) STATE-OWNED ENTERPRISE.—The term ''state-owned enterprise'' means a person who is affiliated with, or wholly owned or controlled by, the Government of the People's Republic of China and whose means of production, products, and revenues are owned or controlled by a central or provincial government authority. A person shall be considered to be state-owned if—

(1) the person's assets are primarily owned by a central or provincial government authority;

(2) in whole or in part, the person's profits are required to be submitted to a central or provincial government authority;

(3) the person's production, purchases of inputs, and sales of output, in whole or in part, are subject to state, sectoral, or regional plans; or

(4) a license issued by a government authority classifies the person as state-owned.

WELLSTONE AMENDMENTS NOS. 4118–4121

Mr. WELLSTONE proposed four amendments to the bill, H.R. 4444, supra; as follows:

AMENDMENT NO. 4118

On page 4, line 22, beginning with ''Prior'' strike all through page 5, line 12, and insert the following:

Prior to making the determination provided for in subsection (a)(1), the President shall transmit a report to Congress certifying that—

(1) pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999;

(2) the People's Republic of China has ratified the International Covenant on Civil and Political Rights, signed in October 1998, and that the Covenant has entered into force and effect with respect to the People's Republic of China;

(3) the People's Republic of China has begun to dismantle its system of reeducation

through labor, which allows officials of the People's Republic of China to sentence thousands of citizens to labor camps each year without judicial review;

(4) the People's Republic of China has opened up Tibet and Xinjiang to regular, unhindered access by United Nations human rights and humanitarian agencies, foreign journalists, diplomats, and independent human rights monitors;

(5) the People's Republic of China has reviewed the sentences of those people it has incarcerated as counterrevolutionaries under the provisions of a law that was repealed in March 1997 and the People's Republic of China intends to release those people;

(6) the People's Republic of China has agreed to establish a high-level and ongoing dialogue with the United States on religious freedom; and

(7) the leadership of the People's Republic of China has entered into a meaningful dialogue with the Dalai Lama or his representatives.

SEC. 102. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.—The extension of nondiscriminatory treatment pursuant to section 101 shall be effective no earlier than the effective date of the accession of the People's Republic of China to the World Trade Organization.

AMENDMENT NO. 4119

On page 4, line 22, beginning with ''Prior'', strike all through page 5, line 12, and insert the following:

Prior to making the determination provided for in subsection (a)(1), the President shall transmit a report to Congress certifying that—

(1) pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999;

(2) the People's Republic of China is complying with the Memorandum of Understanding Between the United States and the People's Republic of China on Prohibiting Import and Export Trade in Prison Labor Products, signed on August 7, 1992;

(3) the People's Republic of China is complying with the Statement of Cooperation on the Memorandum of Understanding Between the United States and the People's Republic of China on Prohibiting Import and Export Trade in Prison Labor Products, signed on March 14, 1994; and

(4) the People's Republic of China is fully cooperating with all outstanding requests made by the United States for visitation or investigation pursuant to the Memorandum referred to in paragraph (2) and the Statement of Cooperation referred to in paragraph (3), including requests for visitations or investigation of facilities considered ''reeducation through labor'' facilities.

SEC. 102. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.—The extension of nondiscriminatory treatment pursuant to section 101 shall be effective no earlier than the effective date of the accession of the People's Republic of China to the World Trade Organization.

AMENDMENT NO. 4120

On page 4, line 22, beginning with ''Prior'', strike all through page 5, line 12, and insert the following:

Prior to making the determination provided for in subsection (a)(1), the President shall transmit a report to Congress certifying that—

(1) pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999;

(2) the People's Republic of China has provided a detailed response to inquiries regarding the number of persons who are imprisoned, detained, or under house arrest because of union organizing; and

(3) the People's Republic of China has made substantial progress in releasing from prison all persons incarcerated for organizing independent trade unions.

SEC. 102. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF NONDISCRIMINATORY TREATMENT.—The extension of nondiscriminatory treatment pursuant to section 101 shall be effective no earlier than the effective date of the accession of the People's Republic of China to the World Trade Organization.

AMENDMENT NO. 4121

At the end of the bill, add the following:

TITLE VIII—WORKER RIGHTS

SEC. 801. SHORT TITLE.

This title may be cited as the ''Right to Organize Act of 2000''.

SEC. 802. EMPLOYER AND LABOR ORGANIZATIONS PRESENTATIONS.

Section 8(c) of the National Labor Relations Act (29 U.S.C. 158(c)) is amended—

(1) by inserting ''(1)'' after the subsection designation; and

(2) by adding at the end the following new paragraphs:

''(2) If an employer or employer representative addresses the employees on the employer's premises or during work hours on issues relating to representation by a labor organization, the employees shall be assured, without loss of time or pay, an equal opportunity to obtain, in an equivalent manner, information concerning such issues from such labor organization.

''(3) Subject to reasonable regulation by the Board, labor organizations shall have—

''(A) access to areas in which employees work;

''(B) the right to use the employer's bulletin boards, mailboxes, and other communication media; and

''(C) the right to use the employer's facilities for the purpose of meetings with respect to the exercise of the rights guaranteed by this Act.''.

SEC. 803. LABOR RELATIONS REMEDIES.

(a) BOARD REMEDIES.—Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after the fourth sentence the following new sentence: ''If the Board finds that an employee was discharged as a result of an unfair labor practice, the Board in such order shall (1) award back pay in an amount equal to 3 times the employee's wage rate at the time of the unfair labor practice and (2) notify such employee of such employee's right to sue for punitive damages and damages with respect to a wrongful discharge under section 303 of the Labor Management Relations Act, 1947 (29 U.S.C. 187), as amended by the Fair Labor Organizing Act.''.

(b) COURT REMEDIES.—Section 303 of the Labor Management Relations Act, 1947 (29 U.S.C. 187) is amended by adding at the end the following new subsections:

''(c) It shall be unlawful, for purposes of this section, for any employer to discharge an employee for exercising rights protected under the National Labor Relations Act.

''(d) An employee whose discharge is determined by the National Labor Relations Board under section 10(c) of the National Labor Relations Act to be as a result of an unfair labor practice under section 8 of such Act may file a civil action in any district court of the United States, without respect to the amount in controversy, to recover punitive damages or if actionable, in any State court to recover damages based on a wrongful discharge.''.

SEC. 804. INITIAL CONTRACT DISPUTES.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following new subsection:

''(h)(1) If, not later than 60 days after the certification of a new representative of employees for the purpose of collective bargaining, the employer of the employees and the representative have not reached a collective bargaining agreement with respect to the terms and conditions of employment, the employer and the representative shall jointly select a mediator to mediate those issues on which the employer and the representative cannot agree.

''(2) If the employer and the representative are unable to agree upon a mediator, either party may request the Federal Mediation and Conciliation Service to select a mediator and the Federal Mediation and Conciliation Service shall upon the request select a person to serve as mediator.

''(3) If, not later than 30 days after the date of the selection of a mediator under paragraph (1) or (2), the employer and the representative have not reached an agreement, the employer or the representative may transfer the matters remaining in controversy to the Federal Mediation and Conciliation Service for binding arbitration.''.

HOLLINGS AMENDMENT NO. 4122

Mr. HOLLINGS proposed an amendment to the bill, H.R. 4444, supra; as follows:

On page 4, beginning with line 4, strike through line 18 on page 5 and insert the following:

SEC. 101. ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WORLD TRADE ORGANIZATION.

Pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the President shall transmit a report to Congress certifying that the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999.

On page 5, line 19, strike ''SEC. 103.'' and insert ''SEC. 102.''

HELMS AMENDMENTS NOS. 4123–4124

(Ordered to lie on the table.)

Mr. HELMS submitted two amendment intended to be proposed by him to the bill, H.R. 4444, supra; as follows:

AMENDMENT NO. 4123

At the end of the bill, insert the following:

SEC. ___. CODE OF CONDUCT FOR BUSINESSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Chief Executive of Viacom media corporation told the Fortune Global Forum, a gathering of hundreds of corporate leaders in Shanghai to celebrate the 50th anniversary of communism in China in September 1999, that Western media groups ''should avoid being unnecessarily offensive to the Chinese government. We want to do business. We cannot succeed in China without being a friend of the Chinese people and the Chinese government.''.

(2) The owner of Fox and Star TV networks has gained favor with the Chinese leadership in part by dropping programming and publishing deals that offend the Communist Government of China, including the book by the last British Governor of Hong Kong.

(3) The Chief Executive of Time Warner, which owns the Fortune company that organized the Global Forum, called Jiang Zemin his ''good friend'' as he introduced Jiang to make the keynote speech at the conference. Jiang went on to threaten force against Taiwan and to warn that comments by the West on China's abysmal human rights record were not welcome.

(4) The Chief Executive of American International Group was reported to be so effusive in his praise of China's economic progress at the Global Forum that one Chinese official described his remarks as ''not realistic''.

(5) The founder of Cable News Network, one of the world's richest men, told the Global Forum that ''I am a socialist at heart.''.

(6) During the Global Forum, Chinese leaders banned an issue of Time magazine (owned by Time-Warner, the host of the Global Forum) marking the 50th anniversary of communism in China, because the issue included commentaries by dissidents Wei Jingsheng, Wang Dan, and the Dalai Lama. China also blocked the web sites of Time Warner's Fortune magazine and CNN.

(7) Chinese officials denied Fortune the right to invite Chinese participants to the Global Forum and instead padded the guest list with managers of state-run firms.

(8) At the forum banquet, Chinese Premier Zhu Rongji lashed out at the United States for defending Taiwan.

(9) On June 5, 2000, China's number two phone company, Unicom, broke an agreement with the Qualcomm Corporation by confirming that it will not use mobile-phone technology designed by Qualcomm for at least 3 years, causing a sharp sell off of the United States company's stock.

(10) When the Taiwanese pop singer Ahmei, who appeared in advertisements for Sprite in China, agreed to sing Taiwan's national anthem at Taiwan's May 20, 2000, presidential inauguration, Chinese authorities immediately notified the Coca-Cola company that its Ah-mei Sprite ads would be banned.

(11) The company's director of media relations said that the Coca-Cola Company was ''unhappy'' about the ban, but ''as a local business, would respect the authority of local regulators and we will abide by their decisions''.

(12) In 1998, Apple Computer voluntarily removed images of the Dalai Lama from its ''Think Different'' ads in Hong Kong, stating at the time that ''where there are political sensitivities, we did not want to offend anyone''.

(13) In 1997, the Massachusetts-based Internet firm, Prodigy, landed an investment contract in China by agreeing to comply with China's Internet rules which provide for censoring any political information deemed unacceptable to the Communist government.

(b) SENSE OF SENATE.—It is the sense of Senate that in order for the presence of United States businesses to truly foster political liberalization in China, those businesses must conduct themselves in a manner that reflects basic American values of democracy, individual liberty, and justice.

(c) CONSULTATION REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce shall consult with American businesses that do business in, have significant trade with, or invest in the People's Republic of China, to encourage the businesses to adopt a voluntary code of conduct that—

(1) follows internationally recognized human rights principles, including freedom of expression and democratic governance;

(2) ensures that the employment of Chinese citizens is not discriminatory in terms of sex, ethnic origin, or political belief;

(3) ensures that no convict, forced, or indentured labor is knowingly used;

(4) supports the principle of a free market economy and ownership of private property;

(5) recognizes the rights of workers to freely organize and bargain collectively; and

(6) discourages mandatory political indoctrination on business premises.

AMENDMENT NO. 4124

On page 5, between lines 18 and 19, insert the following new section and redesignate the remaining sections and cross references thereto:

SEC. 103. ADDITIONAL CONDITION.

(a) FINDINGS.—Congress makes the following findings:

(1) Permanent normal trade relations treatment would ostensibly be granted to the People's Republic of China in large part to promote political liberalization through free trade and to open the exchange of ideas.

(2) The Broadcasting Board of Governors testified before the Senate Foreign Relations Committee on April 26, 2000, that the Government of the People's Republic of China jams 242 hours a day of Radio Free Asia and Voice of America programs, which includes 100 hours of Mandarin language transmissions, 34 hours of Tibetan language transmissions, and 3 hours of Uyghur language transmissions.

(3) The Broadcasting Board of Governors testified before the Senate Foreign Relations Committee on April 26, 2000, that the Government of the People's Republic of China spends at least $5,400,000 a year to jam Radio Free Asia and Voice of America Mandarin language programs.

(4) The fact that the Government of the People's Republic of China spends at least as much to jam Radio Free Asia and Voice of America broadcasts as the United States spends to transmit broadcasts to China indicates an intense commitment on the part of the People's Republic of China to block the free flow of ideas and news in China.

(b) ADDITIONAL CERTIFICATION.—Notwithstanding any other provision of this Act, the extension of nondiscriminatory trade treatment (normal trade relations treatment) to the People's Republic of China shall not take effect until the President certifies to Congress that the People's Republic of China is no longer jamming or otherwise interfering with broadcasts of Radio Free Asia or the Voice of America.

HELMS (AND WELLSTONE) AMENDMENT NO. 4125

(Ordered to lie on the table.)

Mr. HELMS (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill, H.R. 4444, supra; as follows:

On page 2, line 4, before the end period, insert the following: ''; **FINDINGS**''.

On page 4, before line 1, insert the following:

(c) FINDINGS.—Congress makes the following findings:

(1) The People's Republic of China has not yet ratified the United Nations Covenant on Civil and Political Rights, which it signed in October of 1998.

(2) The 1999 State Department Country Reports on Human Rights Practices found that—

(A) the Government of the People's Republic of China continues to commit widespread and well-documented human rights abuses in violation of internationally accepted norms;

(B) the Government of the People's Republic of China's poor human rights record deteriorated markedly throughout the year, as the Government intensified efforts to suppress dissent;

(C) abuses by Chinese authorities exist, including instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrests and detentions, lengthy incommunicado detentions, and denial of due process;

(D) violence against women exists in the People's Republic of China, including coercive family planning practices such as forced abortion and forced sterilization, prostitution, discrimination against women, trafficking in women and children, abuse of children, and discrimination against the disabled and minorities; and

(E) tens of thousands of members of the Falun Gong spiritual movement were detained after the movement was banned in July 1999, several leaders of the movement were sentenced to long prison terms in late December, hundreds were sentenced administratively to reeducation through labor, and according to some reports, the Government of the People's Republic of China started confining some Falun Gong adherents to psychiatric hospitals.

(3) The Department of State's 2000 Annual Report on International Religious Freedom states that during 1999 and 2000—

(A) ''the Chinese government's respect for religious freedom deteriorated markedly'';

(B) the Chinese police closed many ''underground'' mosques, temples, seminaries, Catholic churches, and Protestant ''house churches'';

(C) leaders of unauthorized groups are often the targets of harassment, interrogations, detention, and physical abuse in the People's Republic of China;

(D) in some areas, Chinese security authorities used threats, demolition of unregistered property, extortion of ''fines'', interrogation, detention, and at times physical abuse to harass religious figures and followers; and

(E) the Government of the People's Republic of China continued its ''patriotic education'' campaign aimed at enforcing compliance with government regulations and either cowing or weeding out monks and nuns who refuse to adopt the Party line and remain sympathetic to the Dalai Lama.

(4) The report of the United States Commission on International Religious Freedom—

(A) found that the Government of the People's Republic of China and the Communist Party of China discriminates, harasses, incarcerates, and tortures people on the basis of their religion and beliefs, and that Chinese law criminalizes collective religious activity by members of religious groups that are not registered with the State;

(B) noted that the Chinese authorities exercise tight control over Tibetan Buddhist monasteries, select and train important religious figures, and wage an invasive ideological campaign both in religious institutions and among the Tibetan people generally;

(C) documented the tight control exercised over the Uighur Muslims in Xinjiang in northwest China, and cited credible reports of thousands of arbitrary arrests, the widespread use of torture, and extrajudicial executions; and

(D) stated that the Commission believes that Congress should not approve permanent normal trade relations treatment for China until China makes substantial improvements with respect to religious freedom, as measured by certain objective standards.

(5) On March 4, 2000, four days before the President forwarded to Congress legislation to grant permanent normal trade relations treatment to the People's Republic of China, the Government of the People's Republic of China arrested four American citizens for practicing Falun Gong in Beijing.

On page 4, line 22, beginning with ''Prior'', strike all through page 5, line 6, and insert the following:

Prior to making the determination provided for in subsection (a)(1), the President shall transmit a report to Congress certifying that—

(1) pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999;

(2) the People's Republic of China has ratified the International Covenant on Civil and Political Rights, and that the Covenant has entered into force and effect with respect to the People's Republic of China;

(3) the People's Republic of China has begun to dismantle its system of reeducation through labor, which allows officials of the People's Republic of China to sentence thousands of citizens to labor camps each year without judicial review;

(4) the People's Republic of China has opened up Tibet and Xinjiang to regular, unhindered access by United Nations human rights and humanitarian agencies;

(5) the People's Republic of China has reviewed the sentences of those people it has incarcerated as counterrevolutionaries under the provisions of a law that was repealed in March 1997 and the People's Republic of China intends to release those people;

(6) the People's Republic of China has agreed to establish a high-level and on-going dialogue with the United States on religious freedom;

(7) the People's Republic of China has agreed to permit unhindered access to religious leaders by the United States Commission on International Religious Freedom and recognized international human rights organizations, including access to religious leaders who are imprisoned, detained, or under house arrest;

(8) the People's Republic of China has provided a detailed response to inquiries regarding the number of persons who are imprisoned, detained, or under house arrest because of religious beliefs or whose whereabouts are not known but who were seen in the custody of officials of the People's Republic of China;

(9) the People's Republic of China intends to release from prison all persons incarcerated because of their religious beliefs;

(10) the People's Republic of China has provided a detailed response to inquiries regarding the number of persons who are imprisoned, detained, or under house arrest for reasons of union organizing; and

(11) the People's Republic of China intends to release from prison all persons incarcerated for organizing independent trade unions.

On page 5, line 10, strike ''section 101(a)'' and insert ''section 101''.

HELMS AMENDMENTS NOS. 4126–4128

(Ordered to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to the bill, H.R. 4444, supra; as follows:

AMENDMENT NO. 4126

At the end of the bill, insert the following:

SEC. ___. REPORTS BY UNITED STATES TRADE REPRESENTATIVE.

(a) IN GENERAL.—Not later than 1 year after the People's Republic of China accedes to the World Trade Organization, the United States Trade Representative shall submit a report to the appropriate congressional committees regarding the compliance of the People's Republic of China with the concessions made in the bilateral agreement entered into with the United States.

(b) CONTENTS OF THE REPORT.—The report required by subsection (a) shall include the following:

(1) The status of the People's Republic of China's compliance with its agreement to reduce tariffs on United States agricultural products, including priority agricultural products, beef, poultry, cheese, and other commodities.

(2) The status of the People's Republic of China's compliance with its agreement to expand market access for United States corn, cotton, wheat, rice, barley, soybeans, meats, and other agricultural products.

(3) The status of the People's Republic of China's compliance with its agreement to eliminate trade-distorting export subsidies.

(4) The status of the People's Republic of China's compliance with its agreement to give full trading rights to United States businesses, including full right to import, export, own and operate distributions networks inside the People's Republic of China, and the elimination of state-owned middlemen.

(5) The status of the People's Republic of China's compliance with its agreement to open markets for telecommunications, insurance, banking, securities, audio visual, and professional services.

(6) The status of the People's Republic of China's compliance with its agreement to open its markets for foreign investment in information technology.

(7) The status of the People's Republic of China's compliance with its agreement to expand significantly the number of foreign movies shown in the People's Republic of China.

(8) The status of the People's Republic of China's agreement to reduce tariffs on automobiles.

(9) The status and effectiveness of the special safeguard provisions of the United States-China bilateral agreement.

(c) OTHER REPORTS.—In addition to the report required by subsection (a), the United States Trade Representative shall submit to the appropriate congressional committees the following reports.

(1) REPORT DUE IN 2003.—Not later than March 1, 2003, the United States Trade Representative shall report on the status of the People's Republic of China's compliance with its agreement to reduce tariffs on United States goods identified in subsection (b) (1), (2), and (8) and other United States priority goods.

(2) REPORT DUE IN 2005.—Not later than March 1, 2005, the United States Trade Representative shall report on the status of the People's Republic of China's compliance with its agreement—

(A) to reduce average overall tariffs on United States industrial goods from 24.6 percent to 9.4 percent or less; and

(B) to eliminate tariffs on United States high-technology goods.

(d) NEGATIVE DETERMINATIONS.—

(1) IN GENERAL.—If the United States Trade Representative in any of the reports described in subsection (c) (1) or (2) finds that the People's Republic of China is not complying with its commitments to reduce or eliminate the tariffs described in such subsection (c), and a joint resolution described in paragraph (2) is enacted into law pursuant to the provisions of paragraph (3), the President shall suspend, withdraw, or prevent the application of benefits of the bilateral trade agreement between the United States and the People's Republic of China including the extension of nondiscriminatory treatment (normal trade relations treatment) and may impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, the People's Republic of China for such time as the President determines appropriate.

(2) JOINT RESOLUTION DESCRIBED.—For purposes of paragraph (1), a joint resolution is described in this paragraph if it is a joint resolution of the 2 Houses of Congress and the matter after the resolving clause of such joint resolution is as follows: ''That the Congress finds that the People's Republic of China has failed to comply with its commitments to reduce or eliminate tariffs and the Congress withdraws its approval of the extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China and the President may impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, the People's Republic of China for such time as the President determines appropriate.''.

(3) PROCEDURAL PROVISIONS.—

(A) IN GENERAL.—The requirements of this paragraph are met if the joint resolution is enacted in accordance with this subsection, and Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974) beginning on the date on which Congress receives a negative report from the United States Trade Representative pursuant to subsection (c) (1) or (2).

(B) PRESIDENTIAL VETO.—In any case in which the President vetoes the joint resolution, the requirements of this paragraph are met if each House of Congress votes to override that veto on or before the later of the last day of the 90-day period referred to in subparagraph (A), or the last day of the 15-day period (excluding any day described in section 154(b) of the Trade Act of 1974) beginning on the date on which Congress receives the veto message from the President.

(C) INTRODUCTION.—

(i) TIME.—A joint resolution to which this subsection applies may be introduced at any time on or after the date on which the United States Trade Representative transmits to Congress a negative report pursuant to subsection (c) (1) or (2), and before the end of the 90-day period referred to in subparagraph (A).

(ii) ANY MEMBER MAY INTRODUCE.—A joint resolution described in paragraph (2) may be introduced in either House of Congress by any Member of such House.

(e) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Finance of the Senate and the Committee on International Relations and the Committee on Ways and Means of the House of Representatives.

AMENDMENT NO. 4127

At the end of the bill, insert the following:

SEC. 702. REPORTING REQUIREMENTS REGARDING AGRICULTURAL TRADE DEFICIT WITH CHINA.

(a) IN GENERAL.—The United States-China bilateral agreement on agriculture is designed to substantially lower tariffs, eliminate export subsidies, end discriminatory licensing and import bans, and eliminate unjustified restrictions on agricultural products. The reports described in subsection (b)

shall be submitted to Congress in order to evaluate the progress being made in carrying out the agreement.

(b) REPORT.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the existing United States agricultural trade deficit with the People's Republic of China.

(2) SUBSEQUENT REPORT.—Not later than 3 years after the report described in the paragraph (1), the United States Trade Representative shall report to Congress regarding the size and status of the agricultural trade deficit with the People's Republic of China and whether the People's Republic of China has taken steps to eliminate all barriers to trade in the agricultural sector.

(c) SENSE OF CONGRESS.—If the report described in subsection (b)(2) indicates that 3 years after the date nondiscriminatory treatment is permanently extended to the People's Republic of China, the agricultural trade deficit has not been reduced to one-third or less of the deficit reported under subsection (b)(1), it is the sense of Congress that the extension of nondiscriminatory trade treatment has not produced adequate benefits for United States farmers and the People's Republic of China is manifestly not implementing its bilateral agreement with the United States.

AMENDMENT NO. 4128

At the end of the bill, insert the following:

SEC. 702. SENSE OF CONGRESS REGARDING FORCED ABORTIONS IN CHINA.

(a) FINDINGS.—Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For more than 18 years there have been frequent, consistent, and credible reports of forced abortion and forced sterilization in the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion has no role in the population control program, in fact the Communist Chinese Government encourages forced abortion and forced sterilization through a combination of strictly enforced birth quotas, rewards for informants, and impunity for local population control officials who engage in coercion.

(B) A recent defector from the population control program, testifying at a congressional hearing on June 10, 1998, made clear that central government policy in China strongly encourages local officials to use coercive methods.

(C) Population control officials of the People's Republic of China, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical punishment.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. According to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to enforcement measures including torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy, including numerous examples of actual infanticide.

(F) Since 1994 forced abortion has been used in Communist China not only to regulate the number of children, but also to destroy those who are regarded as defective because of physical or mental disabilities in accordance with the official eugenic policy known as the ''Natal and Health Care Law''.

(3) According to every annual State Department Country Report on Human Rights Practices for the People's Republic of China since 1983, Chinese officials have used coercive measures such as forced abortion, forced sterilization, and detention of resisters.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should urge the People's Republic of China to cease its forced abortion and forced sterilization policies and practices; and

(2) the President should urge the People's Republic of China to cease its detention of those who resist abortion or sterilization.

SMITH OF NEW HAMPSHIRE AMENDMENT NO. 4129

Mr. SMITH of New Hampshire proposed an amendment to the bill, H.R. 4444, supra; as follows:

DIVISION I

On page 46, between lines 3 and 4, insert the following:

SEC. 302A. MONITORING COOPERATION ON POW/MIA ISSUES.

(a) IN GENERAL.—The Commission shall monitor and encourage the cooperation of the People's Republic of China in accounting for United States personnel who are unaccounted for as a result of service in Asia during the Korean War, the Vietnam era, or the Cold War, including, but not limited to—

(1) providing access by Commission members and other representatives of the United States Government to reported sites of prisoner of war camps of the Korean War era in the People's Republic of China, and to archives, museums, and other holdings of the People's Republic of China, that are believed by the Commission to contain documents and other materials relevant to the accounting for such personnel; and

(2) providing access by Commission members and other representatives of the United States Government to military and civilian officials of the Government of the People's Republic of China, and facilitating access to private individuals in the People's Republic of China, who are determined by the Commission potentially to have information regarding the fate of such personnel.

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall also include the following:

(1) An assessment of the contribution to the accounting for missing United States personnel covered by subsection (a) of the information obtained by the Commission and other United States Government agencies under that subsection during the period covered by the report.

(2) A description and assessment of the cooperation of the People's Republic of China in accounting for United States personnel covered by subsection (a) during the period covered by the report.

(3) A list of the archives, museums, and holdings in the People's Republic of China, and of the reported sites of prisoner of war camps of the Korean War era in the People's Republic of China, proposed to be visited by the Commission, and by other representatives of the United States Government, during the 12-month period beginning on the date of the report.

(4) A list of the military and civilian officials of the Government of the People's Republic of China, and of the private individuals in the People's Republic of China, proposed to be interviewed by the Commission, and by other representatives of the United States Government, during the 12-month period beginning on the date of the report.

DIVISION II

SEC. 302B. MONITORING AND REPORTING ON COMMERCIAL ACTIVITIES BETWEEN UNITED STATES COMPANIES AND PEOPLE'S LIBERATION ARMY COMPANIES.

(a) MONITORING OF COMMERCIAL ACTIVITIES BETWEEN UNITED STATES COMPANIES AND PLA COMPANIES.—

(1) REQUIREMENT.—Beginning not later than 90 days after the date of enactment of this Act, the Commission, in cooperation with the Director of the Federal Bureau of Investigation, shall provide for the on-going monitoring of commercial activities, whether direct or indirect, between People's Liberation Army companies and United States companies.

(2) COORDINATION WITH OTHER FEDERAL AGENCIES.—

(A) IN GENERAL.—The monitoring required under paragraph (1) shall be carried out using the information, services, and assistance of any department or agency of the Federal Government, whether civilian or military, that the Director considers appropriate, including the Defense Intelligence Agency, the Central Intelligence Agency, and the United States Customs Service.

(B) COOPERATION.—The head of any department or agency of the Federal Government shall, upon request of the Director, provide the Federal Bureau of Investigation with such information, services, and other assistance in the monitoring required under paragraph (1) as the Director and the head of such department or agency jointly consider appropriate.

(b) ANNUAL REPORTS ON MONITORING.—

(1) REQUIREMENT.—Not later than six months after the date of enactment of this Act, and annually thereafter, the Commission, in cooperation with the Director of the Federal Bureau of Investigation, shall submit to Congress a report on the results of the monitoring activities carried out under subsection (a) during the one-year period ending on the date of the report.

(2) REPORT ELEMENTS.—Each report under this subsection shall set forth, for the one-year period covered by such report, the following:

(A) Information on the People's Liberation Army companies engaged in commercial activities with United States companies during such period, including—

(i) a list setting forth each People's Liberation Army company conducting business in the United States;

(ii) a list setting forth all People's Liberation Army products sold by United States companies to other United States companies or United States nationals;

(iii) a statement of the profits realized by the People's Liberation Army from the sale of products set forth in clause (ii) and on products sold directly to United States companies and United States nationals; and

(iv) a statement of the dollar amount spent for the purchase of the products covered by clause (iii).

(B) An assessment of the consequences for United States national security of the sale of People's Liberation Army products to United States companies and United States nationals, including—

(i) an assessment of the relationships between People's Liberation Army companies and United States companies;

(ii) an assessment of the use of the profits of such sales by the People's Liberation Army; and

(iii) a description and assessment of any technology transfers between United States

companies and People's Liberation Army companies.

(3) FORM OF REPORT.—Each report under this subsection shall be submitted in unclassified form, but may contain a classified annex.

(c) DEFINITIONS.—In this section:

(1) PEOPLE'S LIBERATION ARMY COMPANY.—The term ''People's Liberation Army company'' means any commercial person or entity that is owned by, associated with, or an auxiliary to the People's Liberation Army, including any armed force of the People's Liberation Army, any intelligence service of the People's Republic of China, or the People's Armed Police.

(2) ORGANIZED UNDER THE LAWS OF THE UNITED STATES.—The term ''organized under the laws of the United States'' means organized under the laws of the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(3) UNITED STATES COMPANY.—The term ''United States company'' means a corporation, partnership, or other business association organized under the laws of the United States.

DIVISION III

SEC. 302C. MONITORING AND REPORTING ON DEVELOPMENT OF SPACE CAPABILITIES.

(a) IN GENERAL.—The Commission shall, with the support of other United States Government agencies, monitor the development of military space capabilities in the People's Republic of China, including—

(1) the extent to which the membership of the People's Republic of China in the World Trade Organization facilitates its acquisition of space and space-applicable technologies;

(2) the extent to which commercial space revenues in the People's Republic of China support and enhance space activities in the People's Republic of China;

(3) the extent to which Federal subsidies for United States companies doing business in the People's Republic of China enhances space activities in the People's Republic of China;

(4) the extent to which the People's Republic of China proliferates space technology to other Nations; and

(5) the extent to which both manned and unmanned space activities in the People's Republic of China—

(A) support land, sea, and air forces of the People's Republic of China;

(B) threaten the United States and its allies' land, sea, and air forces and

(C) threaten the United States and its allies' military, civil, and commercial space assets.

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall include specific information on the nature of the technologies and programs relating to military space development by the Peoples Republic of China described in subsection (a). The report may contain separate classified annexes if necessary.

DIVISION IV

SEC. 302D. MONITORING AND REPORTING ON COOPERATION ON ENVIRONMENTAL PROTECTION.

(a) IN GENERAL.—The Commission shall monitor and encourage the cooperation of the People's Republic of China in—

(1) the implementation and enforcement of laws for the protection of human health and the protection, restoration, and preservation of the environment that are at least as comprehensive and effective as comparable laws of the United States, including—

(A) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(B) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(C) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(D) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(E) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.);

(F) the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.);

(G) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(H) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(I) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(J) the Clean Air Act (42 U.S.C. 7401 et seq.);

(K) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(L) the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.); and

(M) the Pollution Prevention Act of 1990 (42 U.S.C. 13101 et seq.); and

(2) the allocation, for assisting and ensuring compliance with the laws specified in paragraph (1), of sufficient resources, including funds, to achieve material and measurable progress on a permanent basis in the protection of human health and the protection, restoration, and preservation of the environment.

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall also include, for the period for which the report is submitted, a description of the results of the monitoring required under subsection (a), including an analysis of any progress of the People's Republic of China in implementing and enforcing environmental laws as described in that subsection.

DIVISION V

SEC. 302F. MONITORING AND REPORTING ON CONDITIONS RELATING TO ORPHANS AND ORPHANAGES.

(a) MONITORING.—The Commission shall monitor the actions of the People's Republic of China, and particularly the Ministry of Civil Affairs, to determine if the People's Republic of China has demonstrated that—

(1) the quality of care of orphans in the People's Republic of China has improved by providing specific data such as survival rates of orphans and the ratio of workers-to-orphans in orphanages;

(2) orphans are receiving proper medical care and nutrition;

(3) there is increased accountability of how public and private funds are spent with respect to the care of orphans;

(4) international adoption and Chinese adoptions are being encouraged; and

(5) efforts are being made to help children (and particularly children with special needs) get adopted.

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall also include a description of the results of the monitoring required under subsection (a), including what actions have been taken by the People's Republic of China with respect to improving the quality of care of orphans and encouraging international and Chinese adoptions.

DIVISION VI

SEC. 302H. MONITORING AND REPORTING ON ORGAN HARVESTING AND TRANSPLANTING IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) MONITORING.—The Commission shall monitor the actions of the Government of the People's Republic of China with respect to its practice of harvesting and transplanting organs for profit from prisoners that it executes.

(b) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under section 302(g) shall also include a description of the results of the monitoring required under subsection (a), including what actions have been taken by the People's Republic of China with respect to eliminating the practice of harvesting and transplanting organs for profit.

KING AND TSIORVAS PIPELINE SAFETY IMPROVEMENT ACT OF 2000

MCCAIN (AND OTHERS) AMENDMENT NO. 4130

Mr. GORTON (for Mr. MCCAIN (for himself, Mr. GORTON, Mrs. MURRAY, Mr. BINGAMAN, Mr. DOMENICI, and Mr. ROBB)) proposed an amendment to the bill (S. 2438) to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; as follows:

On page 18, strike lines 22 through 25 and insert the following:

''(A) periodic assessment of the integrity of the pipeline through methods including internal inspection, pressure testing, direct assessment, or other effective methods;''.

On page 19, line 2, strike ''inspection or testing done'' and insert ''periodic assessment methods carried out''.

On page 19, line 4, insert ''and'' after the semicolon.

On page 19, line 8, strike ''measures; and'' and insert ''measures.''.

On page 19, strike lines 9 through 13.

On page 19, beginning in line 15, strike ''inspections or testing'' and insert ''assessment methods carried out''.

On page 21, line 2, strike the closing quotation marks and the second period.

On page 21, between lines 2 and 3, insert the following:

''(6) OPPORTUNITY FOR LOCAL INPUT ON INTEGRITY MANAGEMENT.—Within 18 months after the date of enactment of the Pipeline Safety Improvement Act of 2000, the Secretary shall, by regulation, establish a process for raising and addressing local safety concerns about pipeline integrity and the operator's pipeline integrity plan. The process shall include—

''(A) a requirement that an operator of a hazardous liquid or natural gas transmission pipeline facility provide information about the risk analysis and integrity management plan required under this section to local officials in a State in which the facility is located;

''(B) a description of the local officials required to be informed, the information that is to be provided to them and the manner, which may include traditional or electronic means, in which it is provided;

''(C) the means for receiving input from the local officials that may include a public forum sponsored by the Secretary or by the State, or the submission of written comments through traditional or electronic means;

''(D) the extent to which an operator of a pipeline facility must participate in a public forum sponsored by the Secretary or in another means for receiving input from the local officials or in the evaluation of that input; and

''(E) the manner in which the Secretary will notify the local officials about how their concerns are being addressed.''.

On page 21, line 14, strike ''of'' the first place it appears and insert ''or''.

On page 21, line 17, insert ''and'' after the semicolon.

On page 21, line 19, strike ''hazardous;'' and'' and insert ''hazardous,'.''

On page 21, beginning with line 20, strike through line 13 on page 22.

On page 24, line 16, strike ''any'' and insert ''the operator's''.

On page 24, line 23, insert a comma after ''facility''.

On page 27, between lines 3 and 4, insert the following:

(b) SAFETY CONDITION REPORTS.—Section 60102(h)(2) is amended by striking ''authorities.'' and inserting ''officials, including the local emergency responders.''.

On page 27, line 4, strike ''(b)'' and insert ''(c)''.

On page 30, line 8, after the period insert: ''Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.''.

On page 31, strike lines 7 through 13 and insert the following:

''(3) EXISTING AGREEMENTS.—If requested by the State Authority, the Secretary shall authorize a State Authority which had an interstate agreement in effect after January, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2001, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2000 if—

''(A) the State Authority fails to comply with the terms of the agreement;

''(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State Authority; or

''(C) continued participation by the State Authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.''.

On page 32, line 10, strike ''is not promoting'' and insert ''would not promote''.

On page 32, beginning with line 22, strike through line 4 on page 34.

On page 36, beginning with line 12, strike through line 9 on page 37 and insert the following:

SEC. 11. RESEARCH AND DEVELOPMENT.

(a) INNOVATIVE TECHNOLOGY DEVELOPMENT.—

(1) IN GENERAL.—As part of the Department of Transportation's research and development program, the Secretary of Transportation shall direct research attention to the development of alternative technologies—

(A) to expand the capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

(C) to develop innovative techniques measuring the structural integrity of pipelines;

(D) to improve the capability, reliability, and practicality of external leak detection devices; and

(E) to develop and improve alternative technologies to identify and monitor outside force damage to pipelines.

(2) COOPERATIVE.—The Secretary may participate in additional technological development through cooperative agreements with trade associations, academic institutions, or other qualified organizations.

(b) PIPELINE SAFETY AND RELIABILITY, RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program—

(A) shall include materials inspection techniques, risk assessment methodology, and information systems surety; and

(B) shall complement, and not replace, the research program of the Department of Energy addressing natural gas pipeline issues existing on the date of enactment of this Act.

(2) PURPOSE.—The purpose of the cooperative research program shall be to promote pipeline safety research and development to—

(A) ensure long-term safety, reliability and service life for existing pipelines;

(B) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(C) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(D) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(E) develop improved materials and coatings for use in pipelines;

(F) improve the capability, reliability, and practicality of external leak detection devices;

(G) identify underground environments that might lead to shortened service life;

(H) enhance safety in pipeline siting and land use;

(I) minimize the environmental impact of pipelines;

(J) demonstrate technologies that improve pipeline safety, reliability, and integrity;

(K) provide risk assessment tools for optimizing risk mitigation strategies; and

(L) provide highly secure information systems for controlling the operation of pipelines.

(3) AREAS.—In carrying out this subsection, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil and petroleum product pipelines for—

(A) early crack, defect, and damage detection, including real-time damage monitoring;

(B) automated internal pipeline inspection sensor systems;

(C) land use guidance and set back management along pipeline rights-of-way for communities;

(D) internal corrosion control;

(E) corrosion-resistant coatings;

(F) improved cathodic protection;

(G) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(H) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(I) longer life, high strength, non-corrosive pipeline materials;

(J) assessing the remaining strength of existing pipes;

(K) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative;

(L) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(M) any other areas necessary to ensuring the public safety and protecting the environment.

(4) POINTS OF CONTACT.—

(A) IN GENERAL.—To coordinate and implement the research and development programs and activities authorized under this subsection—

(i) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department of Transportation who has been appointed by the President and confirmed by the Senate; and

(ii) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy who has been appointed by the President and confirmed by the Senate.

(B) DUTIES.—

(i) The point of contact for the Department of Transportation shall have the primary responsibility for coordinating and overseeing the implementation of the research, development, and demonstration program plan under paragraphs (5) and (6).

(ii) The points of contact shall jointly assist in arranging cooperative agreements for research, development and demonstration involving their respective Departments, national laboratories, universities, and industry research organizations.

(5) RESEARCH AND DEVELOPMENT PROGRAM PLAN.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a 5-year program plan to guide activities under this subsection. In preparing the program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(6) IMPLEMENTATION.—The Secretary of Transportation shall have primary responsibility for ensuring the 5-year plan provided for in paragraph (5) is implemented as intended. In carrying out the research, development, and demonstration activities under this paragraph, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(7) REPORTS TO CONGRESS.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report

shall include the activities of the Departments of Transportation and Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.

SEC. 12. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the 5-year research, development, and demonstration program plan under section 11(b)(5). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under that section.

(b) MEMBERSHIP.—The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical contributions to the purposes of the Advisory Committee.

On page 37, line 10, strike ''**SEC. 12.**'' and insert ''**SEC. 13.**''.

On page 38, between lines 21 and 22, insert the following:

(d) PIPELINE INTEGRITY PROGRAM.—

(1) There are authorized to be appropriated to the Secretary of Transportation for carrying out sections 11(b) and 12 of this Act $3,000,000, to be derived from user fees under section 60125 of title 49, United States Code, for each of the fiscal years 2001 through 2005.

(2) Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation to carry out programs for detection, prevention and mitigation of oil spills under sections 11(b) and 12 of this Act for each of the fiscal years 2001 through 2005.

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out sections 11(b) and 12 of this Act such sums as may be necessary for each of the fiscal years 2001 through 2005.

On page 38, line 22, strike ''**SEC. 13.**'' and insert ''**SEC. 14.**''.

On page 39, strike lines 6 through 14 and insert the following:

(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—

(1) by inserting ''(1)'' after ''CORRECTIVE ACTION ORDERS.—''; and

(2) by adding at the end the following:

''(2) If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until—

''(A) the Secretary determines that the employee's performance of duty in carrying out the activity did not contribute substantially to the cause of the accident; or

''(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 4 of the Pipeline Safety Improvement Act of 2000 and can safely perform those activities.

''(3) Disciplinary action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement to the extent it is not inconsistent with the requirements of this section.''.

On page 39, line 15, strike ''**SEC. 14.**'' and insert ''**SEC. 15.**''.

On page 49, beginning with line 4, strike through line 16 on page 52 and insert the following:

SEC. 16. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

On page 52, line 17, strike ''**SEC. 16.**'' and insert ''**SEC. 17.**''.

On page 53, line 5, strike ''**SEC. 17.**'' and insert ''**SEC. 18.**''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources.

The hearing will take place on Friday, September 15, 2000 at 10:00 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to conduct oversight on Federal agency preparedness for the Summer 2000 wildfires.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HAGEL. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, September 7, 2000, at 9:00 a.m. to conduct a business meeting to consider S. 2962, a bill to amend the Clean Air Act to address problems concerning methyl tertiary butyl ether, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HAGEL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, September 7, 2000 to mark up a reconciliation bill on the subject of retirement security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HAGEL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 7, 2000, at 9:30 am to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION AND FEDERAL SERVICES

Mr. HAGEL. Mr. President, I ask unanimous consent that the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services be authorized to meet during the session of the Senate on Thursday, September 7, 2000, at 10:00 a.m. for a hearing on the E-Commerce Activities of the United States Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I ask unanimous consent that David Dorman, a fellow in my office, be granted floor privileges during the course of today's proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

ADDENDUM TO FIRST QUARTER OF 2000 CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby			3,994.00		165.00				4,159.00
William Duhnke			3,016.00		165.00				3,181.00
Kathy Casey			3,644.00		2,355.00				5,999.00
Andrea Andrews			3,994.00						3,994.00
Total			14,648.00		2,685.00				17,333.00

RICHARD SHELBY,
Chairman, Committee on Intelligence, July 24, 2000.

ADDENDUM TO FIRST QUARTER OF 2000 CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby			2,933.00		4,557.90				7,490.90
Peter Dorn			2,930.00		5,352.00				8,282.00
Senator Richard Shelby			3,419.00						3,419.00
Senator Richard Bryan			2,928.00						2,928.00
Alfred Cumming			2,619.00						2,619.00
Senator Frank Lautenberg			504.00		2,073.80				2,577.80
Vicki Divoll			485.00		1,827.80				2,312.80
Anne Caldwell			2,919.00						2,919.00
William Duhnke			2,582.00						2,582.00
Total			21,319.00		13,811.50				35,130.50

RICHARD SHELBY,
Chairman, Committee on Intelligence, July 24, 2000.

ADDENDUM TO FIRST QUARTER OF 2000 CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jay Kimmitt:									
Bosnia	Dollar		351.00						351.00
Croatia	Dollar		274.00						274.00
Macedonia	Dollar		225.00						225.00
Turkey	Dollar		1,138.00						1,138.00
Italy	Dollar		945.00						945.00
John Young:									
Russia	Dollar		1,350.00						1,350.00
Ukraine	Dollar		763.00						763.00
Turkey	Dollar		918.00						918.00
Bulgaria	Dollar		388.00						388.00
Senator Kay Bailey Hutchison:									
Croatia	Dollar		207.00				557.00		764.00
Dave Davis:									
Croatia	Dollar		207.00				557.00		764.00
Larry DiRita:									
Croatia	Dollar		207.00				557.00		764.00
Senator Daniel K. Inouye:									
Israel	Dollar		578.00						578.00
Tim Rieser:									
United States	Dollar				2,505.23				2,505.23
Singapore	Dollar		168.00						168.00
Cambodia	Dollar		710.40						710.40
Hong Kong	Dollar		180.00						180.00
Kevin Linskey:									
Turkey	Lire		634.00		3,774.80				4,408.80
Lila Helms:									
Turkey	Lire		634.00		3,774.80				4,408.80
John Young:									
Russia	Dollar		1,350.00						1,350.00
Ikraine	Dollar		763.00						763.00
Turkey	Dollar		918.00						918.00
Bulgaria	Dollar		388.00						388.00
Total			13,296.40		10,054.83		1,671.00		24,896.23

TED STEVENS,
Chairman, Committee on Appropriations, July 25, 2000.

PIPELINE SAFETY IMPROVEMENT ACT OF 2000

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 763, S. 2438.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read, as follows:

A bill (S. 2438) to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with an amendment as follows:

[Strike out all after the enacting clause and insert the part printed in italic.]

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Pipeline Safety Improvement Act of 2000''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is

expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this Act, the Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT-2000-069).

(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) REPORTS BY THE INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the Committees referred to in subsection (b) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 3. NTSB SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in sections 1135 (a) and (b) of title 49, United States Code, available to the public at reasonable cost.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to the Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

SEC. 4. QUALIFICATIONS OF PIPELINE PERSONNEL.

(a) QUALIFICATION PLAN.—Each pipeline operator shall make available to the Secretary of Transportation, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be made available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.

(b) REQUIREMENTS.—The enhanced qualification plan shall include, at a minimum, criteria to demonstrate the ability of an individual to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the plans to ensure the continuation of a safe operation. The Secretary may establish minimum standards for pipeline personnel training and evaluation, which may include written examination, oral examination, work performance history review, observation during performance on the job, on the job training, simulations, or other forms of assessment.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall submit a report to the Congress evaluating the effectiveness of operator qualification and training efforts, including—

(A) actions taken by inspectors;

(B) recommendations made by inspectors for changes to operator qualification and training programs; and

(C) industry responses to those actions and recommendations.

(2) CRITERIA.—The Secretary may establish criteria for use in evaluating and reporting on operator qualification and training for purposes of this subsection.

(3) DUE DATE.—The Secretary shall submit the report required by paragraph (1) to the Congress 3 years after the date of enactment of this Act.

SEC. 5. PIPELINE INTEGRITY INSPECTION PROGRAM.

Section 60109 is amended by adding at the end the following:

''(c) INTEGRITY MANAGEMENT.—

''(1) GENERAL REQUIREMENT.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to evaluate the risks to the operator's pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those areas. The regulations shall be issued no later than one year after the Secretary has issued standards pursuant to subsections (a) and (b) of this section or by December 31, 2001, whichever is sooner.

''(2) STANDARDS FOR PROGRAM.—In promulgating regulations under this section, the Secretary shall require an operator's integrity management plan to be based on risk analysis and each plan shall include, at a minimum—

''(A) internal inspection or pressure testing, or another equally protective method, where these techniques are not feasible, that periodically assesses the integrity of the pipeline;

''(B) clearly defined criteria for evaluating the results of the inspection or testing done under subparagraph (A) and procedures to ensure identified problems are corrected in a timely manner;

''(C) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive flow devices, or other measures; and

''(D) a description of the operators' consultation with State and local officials during development of the integrity management plan and actions taken by the operator to address safety concerns raised by such officials.

''(3) CRITERIA FOR PROGRAM STANDARDS.—In deciding how frequently the integrity inspections or testing under paragraph (2)(A) must be conducted, an operator shall take into account the potential for new defects developing or previously identified structural defects caused by construction or installation, the operational characteristics of the pipeline, and leak history. In addition, the Secretary may establish a minimum testing requirement for operators of pipelines to conduct internal inspections.

''(4) STATE ROLE.—A State authority that has an agreement in effect with the Secretary under section 60106 is authorized to review and assess an operator's risk analyses and integrity management plans required under this section for interstate pipelines located in that State. The reviewing State authority shall provide the Secretary with a written assessment of the plans, make recommendations, as appropriate, to address safety concerns not adequately addressed in the operator's plans, and submit documentation explaining the State-proposed plan revisions. The Secretary shall carefully consider the State's proposals and work in consultation with the States and operators to address safety concerns.

''(5) MONITORING IMPLEMENTATION.—The Secretary of Transportation shall review the risk analysis and program for integrity management required under this section and provide for continued monitoring of such plans. Not later than 2 years after the implementation of integrity management plans under this section, the Secretary shall complete an assessment and evaluation of the effects on safety and the environment of extending all of the requirements mandated by the regulations described in paragraph (1) to additional areas. The Secretary shall submit the assessment and evaluation to Congress along with any recommendations to improve and expand the utilization of integrity management plans.''.

SEC. 6. ENFORCEMENT.

(a) IN GENERAL.—Section 60112 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides that—

''(1) operation of the facility is or would be hazardous to life, property, or the environment; or

''(2) the facility is, or would be, constructed or operated, of a component of the facility is, or would be, constructed or operated with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.'';

(2) by striking ''is hazardous,'' in subsection (d) and inserting ''is, or would be, hazardous'; and

(3) by adding at the end thereof the following:

''(f) SHUTDOWN AUTHORITY.—

''(1) IN GENERAL.—If the Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, determines that allowing the continued operation of a hazardous liquid or natural gas pipeline creates an imminent hazard (as defined in section 5102(5)), the Secretary or the agency shall take such action as may be necessary to prevent or restrict the operation of that system for 30 days.

''(2) SUBSEQUENT EXTENSION AFTER NOTICE AND HEARING.—After taking action under paragraph (1), the Secretary or the agency may extend the period that action is in effect if the Secretary or the agency determines, after notice and an opportunity for a hearing, that allowing the operation of the pipeline to resume would create an imminent hazard (as defined in section 5102).''.

SEC. 7. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS, AND COMMUNITY RIGHT TO KNOW.

(a) Section 60116 is amended to read as follows:

''§ 60116. Public education, emergency preparedness, and community right to know

''(a) PUBLIC EDUCATION PROGRAMS.—

''(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

''(2) Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2000, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency and shall be periodically reviewed by the Secretary or, in the case of an

intrastate pipeline facility operator, the appropriate State agency.

''(3) The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.

''(b) EMERGENCY PREPAREDNESS.—

''(1) OPERATOR LIAISON.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2000, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain liaison with the State emergency response commissions, and local emergency planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates.

''(2) INFORMATION.—An operator shall, upon request, make available to the State emergency response commissions and local emergency planning committees, and shall make available to the Office of Pipeline Safety in a standardized form for the purpose of providing the information to the public, the information described in section 60102(d), any program for integrity management, and information about implementation of that program. The information about the facility shall also include, at a minimum—

''(A) the business name, address, telephone number of the operator, including a 24-hour emergency contact number;

''(B) a description of the facility including pipe diameter, the product or products carried, and the operating pressure;

''(C) with respect to transmission pipeline facilities, maps showing the location of the facility and, when available, any high consequence areas which the pipeline facility traverses or adjoins and abuts;

''(D) a summary description of the integrity measures the operator uses to assure safety and protection for the environment; and

''(E) a point of contact to respond to questions from emergency response representative.

''(3) SMALLER COMMUNITIES.—In a community without a local emergency planning committee, the operator shall maintain liaison with the local fire, police, and other emergency response agencies.

''(4) PUBLIC ACCESS.—The Secretary shall prescribe requirements for public access, as appropriate, to this information, including a requirement that the information be made available to the public by widely accessible computerized database.

''(c) COMMUNITY RIGHT TO KNOW.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2000, and annually thereafter, the owner or operator of each gas transmission or hazardous liquid pipeline facility shall provide to the governing body of each municipality in which the pipeline facility is located, a map identifying the location of such facility. The map may be provided in electronic form. The Secretary may provide technical assistance to the pipeline industry on developing public safety and public education program content and best practices for program delivery, and on evaluating the effectiveness of the programs. The Secretary may also provide technical assistance to State and local officials in applying practices developed in these programs to their activities to promote pipeline safety.

''(d) PUBLIC AVAILABILITY OF REPORTS.—The Secretary shall—

''(1) make available to the public—

''(A) a safety-related condition report filed by an operator under section 60102(h);

''(B) a report of a pipeline incident filed by an operator;

''(C) the results of any inspection by the Office of Pipeline Safety or a State regulatory official; and

''(D) a description of any corrective action taken in response to a safety-related condition reported under subparagraph (A), (B), or (C); and

''(2) prescribe requirements for public access, as appropriate, to integrity management program information prepared under this chapter, including requirements that will ensure data accessibility to the greatest extent feasible.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:

''60116. Public education, emergency preparedness, community right to know''.

SEC. 8. PENALTIES.

(a) CIVIL PENALTIES.—Section 60122 is amended—

(1) by striking ''$25,000'' in subsection (a)(1) and inserting ''$500,000'';

(2) by striking ''$500,000'' in subsection (a)(1) and inserting ''$1,000,000'';

(3) by adding at the end of subsection (a)(1) the following: ''The preceding sentence does not apply to judicial enforcement action under section 60120 or 60121.''; and

(4) by striking subsection (b) and inserting the following:

''(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—

''(1) the Secretary shall consider—

''(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

''(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, any effect on ability to continue doing business; and

''(C) good faith in attempting to comply; and

''(2) the Secretary may consider—

''(A) the economic benefit gained from the violation without any discount because of subsequent damages; and

''(B) other matters that justice requires.''.

(b) EXCAVATOR DAMAGE.—Section 60123(d) is amended—

(1) by striking ''knowingly and willfully'';

(2) by inserting ''knowingly and willfully'' before ''engages'' in paragraph (1); and

(3) striking paragraph (2)(B) and inserting the following:

''(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or''.

(c) CIVIL ACTIONS.—Section 60120(a)(1) is amended to read as follows:

''(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112 of this chapter, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same factors as prescribed for the Secretary in an administrative case under section 60122.''.

SEC. 9. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) by striking ''GENERAL AUTHORITY.—'' in subsection (a) and inserting ''AGREEMENTS WITHOUT CERTIFICATION.—'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and

(3) by inserting after subsection (a) the following:

''(b) AGREEMENTS WITH CERTIFICATION.—

''(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 of this title and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties.

''(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines that—

''(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

''(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

''(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

''(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

''(3) EXISTING AGREEMENTS.—Except as provided in subsection (e), an agreement between the Secretary and a State authority that is in effect on the date of enactment of the Pipeline Safety Improvement Act of 2000 shall remain in effect until the Secretary determines that the State meets the requirements for a determination under paragraph (2).''.

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106, as redesignated by subsection (a), is amended to read as follows:

''(e) ENDING AGREEMENTS.—

''(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

''(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

''(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

''(C) continued participation by the State authority in the oversight of interstate pipeline transportation is not promoting pipeline safety.

''(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give the notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.''.

(c) CONTINUATION OF INTERSTATE AGENT AGREEMENT AUTHORITY.—

(1) IN GENERAL.—If an agreement was in effect in 1999 between the Secretary of Transportation or one of its agencies and a State to permit that State to oversee interstate pipeline transportation, the Secretary shall continue to permit that State to carry out activities under the agreement, including inspection responsibilities and other actions to ensure compliance with Federal pipeline safety regulations.

(2) TERMINATION.—Notwithstanding paragraph (1), the Secretary may terminate an agreement described in that paragraph if—

(A) the State wishes to withdraw from the agreement;

(B) implementation of the agreement has resulted in gaps in the oversight responsibilities of intrastate pipeline transportation by the State; or

(C) the State's oversight actions under the agreement have had an adverse impact on pipeline safety or impeded interstate commerce.

(3) PROCEDURAL REQUIREMENTS FOR TERMINATION.—Before terminating an agreement described in paragraph (1), the Secretary shall give notice and an opportunity for a hearing to the State, and provide an opportunity for the State to correct any deficiencies. The Secretary shall publish the decision to terminate such an agreement and the reasons therefore in the Federal Register not less than 15 days before the termination is effective, unless the Secretary finds that continuation of an agreement poses an imminent hazard.

SEC. 10. IMPROVED DATA AND DATA AVAILABILITY.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Secretary shall develop and implement a comprehensive plan for the collection and use of gas and hazardous liquid pipeline data to revise the causal categories on the incident report forms to eliminate overlapping and confusing categories and include subcategories. The plan shall include components to provide the capability to perform sound incident trend analysis and evaluations of pipeline operator performance using normalized accident data.

(b) REPORT OF RELEASES EXCEEDING 5 GALLONS.—Section 60117(b) is amended—

(1) by inserting ''(1)'' before ''To'';

(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(3) inserting before the last sentence the following:

''(2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release to the environment greater than five gallons of the hazardous liquid or carbon dioxide transported. This section applies to releases from pipeline facilities regulated under this chapter. A report must include the location of the release, fatalities and personal injuries, type of product, amount of product release, cause or causes of the release, extent of damage to property and the environment, and the response undertaken to clean up the release.

''(3) During the course of an incident investigation, a person owning or operating a pipeline facility shall make records, reports, and information required under subsection (a) of this section or other reasonably described records, reports, and information relevant to the incident investigation, available to the Secretary within the time limits prescribed in a written request.''; and

(4) indenting the first word of the last sentence and inserting ''(4)'' before ''The Secretary'' in that sentence.

(c) PENALTY AUTHORITIES.—

(1) Section 60122(a) is amended by striking ''60114(c)'' and inserting ''60117(b)(3)''.

(2) Section 60123(a) is amended by striking ''60114(c),'' and inserting ''60117(b)(3),''.

(d) ESTABLISHMENT OF NATIONAL DEPOSITORY.—Section 60117 is amended by adding at the end the following:

''(l) NATIONAL DEPOSITORY.—The Secretary shall establish a national depository of data on events and conditions, including spill histories and corrective actions for specific incidents, that can be used to evaluate the risk of, and to prevent, pipeline failures and releases. The Secretary shall administer the program through the Bureau of Transportation Statistics, in cooperation with the Research and Special Programs Administration, and shall make such information available for use by State and local planning and emergency response authorities and the public.''.

SEC. 11. INNOVATIVE TECHNOLOGY DEVELOPMENT.

(a) IN GENERAL.—As part of the Department of Transportation's research and development program, the Secretary of Transportation shall direct research attention to the development of alternative technologies—

(1) to expand the capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(2) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

(3) to develop innovative techniques measuring the structural integrity of pipelines;

(4) to improve the capability, reliability, and practicality of external leak detection devices; and

(5) to develop and improve alternative technologies to identify and monitor outside force damage to pipelines.

(b) COOPERATIVE.—The Secretary may participate in additional technological development through cooperative agreements with trade associations, academic institutions, or other qualified organizations.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUIDS.—Section 60125(a) is amended to read as follows:

''(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter and other pipeline-related damage prevention activities of this title (except for section 60107), there are authorized to be appropriated to the Department of Transportation—

''(1) $26,000,000 for fiscal year 2001, of which $20,000,000 is to be derived from user fees for fiscal year 2001 collected under section 60301 of this title; and

''(2) $30,000,000 for each of the fiscal years 2002 and 2003 of which $23,000,000 is to be derived from user fees for fiscal year 2002 and fiscal year 2003 collected under section 60301 of this title.''.

(b) GRANTS TO STATES.—Section 60125(c) is amended to read as follows:

''(c) STATE GRANTS.—Not more than the following amounts may be appropriated to the Secretary to carry out section 60107—

''(1) $17,000,000 for fiscal year 2001, of which $15,000,000 is to be derived from user fees for fiscal year 2001 collected under section 60301 of this title; and

''(2) $20,000,000 for the fiscal years 2002 and 2003 of which $18,000,000 is to be derived from user fees for fiscal year 2002 and fiscal year 2003 collected under section 60301 of this title.''.

(c) OIL SPILLS.—Sections 60525 is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), (g) and inserting after subsection (c) the following:

''(d) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to carry out programs authorized in this Act for fiscal year 2001, fiscal year 2002, and fiscal year 2003.''.

SEC. 13. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—If the Department of Transportation or the National Transportation Safety Board investigate an accident, the operator involved shall make available to the representative of the Department or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.

(b) HAZARDOUS FACILITY DESIGNATION.—A facility operated by an operator that fails to take prompt action to relieve, reassign, or place on leave (with or without compensation) any employee whose duties affect public safety and whose performance of those duties is a subject of such an accident investigation until the conclusion of the investigation is deemed to be hazardous under section 60112. The Secretary shall take action under section 60112(d) against that facility.

SEC. 14. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

''§ 60129. Protection of employees providing pipeline safety information

''(a) DISCRIMINATION AGAINST PIPELINE EMPLOYEES.—No pipeline operator or contractor or subcontractor of a pipeline may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

''(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

''(3) testified or is about to testify in such a proceeding; or

''(4) assisted or participated or is about to assist or participate in such a proceeding.

''(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Research and Special Programs Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior

described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

''(i) take affirmative action to abate the violation;

''(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

''(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

''(4) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

''(6) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

''(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award costs is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a pipeline, contractor or subcontractor who, acting without direction from the pipeline contractor or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

''(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for a pipeline.''.

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

''(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by adding at the end the following:

''60129. Protection of employees providing pipeline safety information.''.

SEC. 15. PIPELINE SAFETY ADVISORY COUNCIL PILOT PROGRAM.

(a) PILOT PROGRAM.—Within 120 days after the date of enactment of this Act, the Secretary of Transportation shall create a Pipeline Safety Advisory Council pilot program. Under the pilot program, the Secretary shall establish one or more Pipeline Safety Advisory Councils to provide advice and recommendations to the Secretary on a range of hazardous liquid or natural gas transmission pipeline safety issues affecting pipelines operated in the State in which the Council is established.

(b) ESTABLISHMENT AND COMPOSITION.—A Council shall be comprised of 11 members, appointed by the Secretary as follows:

(1) All members shall be residents of the State in which the pipelines are located the safety of which that Council is to review and monitor.

(2) The membership shall include representatives of—

(A) the general public (who are not representatives of any other category under this paragraph);

(B) pipeline right-of-way property owners (who are not representatives of any other category under this paragraph);

(C) local governments;

(D) emergency responders;

(E) environmental organizations; and

(F) State officials with jurisdiction over pipeline safety.

(c) FUNCTIONS.—Each Advisory Council shall provide advice to the Secretary on pipeline safety regulations and other matters relating to activities and functions of the Department of Transportation's Office of Pipeline Safety. Each meeting shall be open to the public and the Council shall maintain minutes of each meeting. Any recommendations made by a Council shall be available upon request to other interested parties. In carrying out its advisory duties, each Council shall—

(1) provide advice and recommendations on policies, permits, and regulations relating to the operation and maintenance of pipeline facilities which affect the State to the Secretary and the Governor of the State;

(2) review and comment on proposals for new pipeline facilities in the State, including issues of public safety and environmental impact;

(3) submit advice to the Secretary on permits and standards that would affect the environment and safety of a pipeline operating in that State;

(4) submit recommendations to the Secretary and appropriate authorities of the State on standards to improve pipeline safety, accidental release responses, emergency preparedness, and efforts to help the public live safely with pipelines; and

(5) provide an annual report to the Secretary on its activities and the steps taken in the State to address its advice and safety recommendations.

(d) FUNDING.—

(1) FUNDING REQUEST BY COUNCIL.—Each Council shall submit an application for a funding request to the Secretary, at such time, in such form, and containing such information as the Secretary may require, outlining the Council's budget.

(2) SECRETARY TO APPROVE BUDGET AND PROVIDE FUNDS.—After receiving a request under paragraph (1) from a Council, the Secretary shall determine the level of Council funding and may—

(A) utilize funds obtained from fines and penalties to finance the Council; or

(B) make appropriated funds available to the Council.

(e) PILOT PROGRAM ASSESSMENT.—A Council established under this section shall submit an annual report to the Secretary. The annual report shall list all activities undertaken by the Council to improve the safety of pipelines located within its State and what action taken was by the State and Department of Transportation to address pipeline operation safety as a result of the Council's activities. Based on the submitted annual reports, and any other material a Council may submit, the Secretary shall determine the need for continuing and, if appropriate, expanding the pilot program. The Secretary shall report that determination, together with any recommendations concerning the program, to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation by December 31, 2004.

SEC. 16. FINES AND PENALTIES.

The Inspector General of the Department of Transportation shall conduct an analysis of the Department's assessment of fines and penalties on gas transmission and hazardous liquid pipelines, including the cost of corrective actions required by the Department in lieu of fines, and, no later than 6 months after the date of enactment of this Act, shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on any findings and recommendations for actions by the

Secretary or Congress to ensure the fines assessed are an effective deterrent for reducing safety risks.

SEC. 17. STUDY OF RIGHTS-OF-WAY.

The Secretary of Transportation is authorized to conduct a study on how best to preserve environmental resources in conjunction with maintaining pipeline rights-of-way. The study shall recognize pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

Mr. MCCAIN. Mr. President, today the Senate is considering S. 2438, the Pipeline Safety Improvement Act of 2000. This legislation is the product of many months of work by the members of the Senate Committee on Commerce, Science, and Transportation, as well as other members of the Senate. Sadly, this legislation is in large part in response to two devastating pipeline accidents that have occurred in the States of Washington and New Mexico during the past 15 months.

A total of 15 lives have been lost in these most recent accidents. Three young men endured fatal injuries last June 1999 in Bellingham, Washington, when 227,000 gallons of gasoline leaked from an underground pipeline and were accidentally ignited. Last month, twelve members of two families camping in Carlsbad, New Mexico, lost their lives when a natural gas transmission line ruptured. We simply must act now to remedy identified safety problems and improve pipeline safety. To do less is a risk to public safety and will perhaps result in more needless deaths. I ask unanimous consent a recent editorial from the Washington Post calling for Congressional action be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. MCCAIN. Mr. President, it is my hope that passage of comprehensive pipeline safety legislation can give the family members associated with these tragedies at least a small bit of comfort that their losses have spurred Congressional action to strengthen pipeline safety laws and help prevent future tragic accidents. I am aware this bill may not go as far as some would like, and also know it goes further than others can support. However, this legislation is a fair and balanced compromise and is a pro-safety measure that will result in pipeline safety improvements. Its enactment is critical to public safety and must be a top priority during the remainder of this Congress.

I extend my sincere appreciation to Senator GORTON for his help in developing the bill before us. His tireless efforts to ensuring that the Senate consider and pass comprehensive pipeline safety legislation is commendable. I also want to thank Senators HOLLINGS, LOTT, HUTCHISON, BREAUX, and BROWNBACK of the Committee for their strong interest in this legislation. Further, I want to recognize the dedication and hard work of Senator MURRAY throughout this process. She has been a tenacious advocate for pipeline safety improvements. I also want to recognize Senator BINGAMAN for his contributions to strengthening the research and development provisions of this legislation, and also Senator DOMENICI for his work. Finally, the input we received from citizens, State pipeline inspectors, the National Transportation Safety Board, the Department of Transportation and its Inspector General, industry and others interested in promoting pipeline safety has been essential to our efforts to craft comprehensive pipeline safety improvement legislation.

Significant attention has been directed toward pipeline safety issues by the Senate during this past year. In March, the Senate Commerce Committee held a field hearing, chaired by Senator GORTON, in Bellingham, Washington, during which 18 witnesses provided information and expressed views on the Bellingham accident. In May, the full committee held a hearing on a broad range of pipeline safety issues, including the three pipeline safety bills that have been introduced in the Senate. We reported out a comprehensive bill in June and since then have developed a manager's amendment to provide further clarification of the bill as well as additional provisions to advance pipeline safety.

I will highlight some of the major provisions of the legislation before us. The bill would require the implementation of pipeline safety recommendations recently issued by the DOT-IG to the Research and Special Programs Administration, RSPA. The legislation would statutorily require the Secretary of Transportation, the RSPA Administrator and the Director of the Office of Pipeline Safety to respond to NTSB pipeline safety recommendations within 90 days of receipt. The bill would require pipeline operators to submit to the Secretary of Transportation a plan designed to improve the qualifications for pipeline personnel. At a minimum, the qualification plan would have to demonstrate that pipeline employees have the necessary knowledge to safely and properly perform their assigned duties and would require testing and periodic reexamination of the employees' qualifications.

The legislation would require DOT to issue regulations mandating pipeline operators to periodically determine the adequacy of their pipelines to safely operate and to adopt and implement integrity management programs to reduce those identified risks. The regulations would, at a minimum, require operators to: base their integrity management plans on risk assessments that they conduct; periodically assess the integrity of their pipelines; and, take steps to prevent and mitigate unintended releases, such as improving leak detection capabilities or installing restrictive flow devices.

S. 2438 also would require an operator of a gas transmission or hazardous liquid pipeline facility to carry out a continuing public education program that would include activities to advise municipalities, school districts, businesses, and residents of pipeline facility locations on a variety of pipeline safety-related matters. It would also direct pipeline operators to initiate and maintain communication with State emergency response commissions and local emergency planning committees and to share with these entities information critical to addressing pipeline safety issues, including information on the types of product transported and efforts by the operator to mitigate safety risks. The Secretary would be directed to prescribe regulations to make certain emergency information publicly available as well as direct operators to provide mapping information to municipalities in which the pipeline facility is located.

The bill would increase the level of maximum civil penalties for violations as requested in the Administration's submission. It would also provide for an enhanced state oversight role in pipeline safety whereby States that have authority over intrastate lines could enter into agreements with the Secretary to participate in the oversight of interstate lines. The manager's amendment clarifies that the state oversight be consistent with the Secretary's federal safety and inspection policies. The legislation further includes language to ensure that the enhanced agreements will not adversely affect the State's responsibilities over intrastate safety and, in the event there is a negative impact, the Secretary is authorized to cancel the enhanced state agreements.

The legislation directs the Secretary to develop and implement a comprehensive plan for the collection and use of pipeline data in a manner that would enable incident trend analysis and evaluations of operator performance. Operators would be required to report incident releases greater than five gallons, compared to the current reporting requirement of 42 gallons. In addition, the Secretary is directed to establish a national depository of data to be administered by the Bureau of Transportation Statistics in cooperation with RSPA.

Given the critical importance of technology applications in promoting transportation safety across all modes of transportation, the legislation directs the Secretary to include as part of the Department's research and development (R&D) efforts a focus on technologies to improve pipeline safety, such as through internal inspection devices and leak detection. Further, the accompanying amendment includes provisions from S. 3002, the Pipeline Integrity, Safety and Reliability Research and Development Act of 2000, introduced by Senator BINGAMAN, myself, and others earlier this week. This provision provides for a collaborative R&D effort directed by the Department of Transportation with the assistance of the Department of Energy and the National Academy of Sciences.

In regard to funding for pipeline safety, the bill provides for a three year authorization, authorizing $26 million for FY2001, $30 million for FY2002; and $30 million in FY2003 for federal pipeline safety activities. It would further authorize the pipeline state grant program at the following levels: $17 million for FY2001; $20 million for FY2002; and $20 million for FY2003. Efforts to provide further increases in funding are under discussion and will be given careful consideration as the legislation moves through the legislative process and on to a conference with the House.

In an effort to enhance the ability of the NTSB and DOT to complete pipeline accident investigations in a timely and comprehensive manner, the substitute amendment includes a provision requiring operators to make available to the DOT or NTSB all records and information pertaining to the accident, including integrity management plans and test results, and to assist in the investigation to the extent reasonable.

Further, the legislation attempts to address the situation when pipeline personnel involved in accidents continue to carry out the same functions as they did prior to an accident even though their job performance may be at question during an investigation. Under the manager's amendment, if the Secretary determines that the actions of an employee may have contributed substantially to the cause of an accident, the Secretary must direct the operator to relieve or reassign the employee, or place the employee on leave until the Secretary determines that the employee's performance did not contribute to the cause of the accident or until the Secretary determines the employee can safely perform his or her duties.

To ensure pipeline employees are afforded the same whistle-blower protections as are provided to employees in other modes, the legislation includes whistle-blower protections for pipeline personnel. The provisions are identical to those recently enacted in the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century, P.L. 106–181, with the exception of changing the words air carrier to pipeline.

Mr. President, the time has come for the full Senate to take action and pass legislation to strengthen and improve pipeline safety. We simple cannot risk the loss of any more lives by lack of needed attention on our part. I urge my colleagues to support passage of this important safety legislation.

EXHIBIT 1

[From the Washington Post, Sept. 4, 2000]

A BLAST IN THE NIGHT

Residents of Carlsbad, N.M., are mourning the 11 family members killed when a natural gas pipeline exploded near their campsite in New Mexico, Investigators still are trying to determine exactly what caused the blast. While they work, there is a job to be done here as well: Put more muscle into federal regulation of pipeline safety.

Nearly all the nation's natural gas and about 65 percent of crude and refined oil travel through a network of nearly 2.2 million miles of pipes. Although pipelines remain statistically safer—in some cases much safer—than other means of transporting freight, the number of accidents reported has been gradually growing during the past decade, according to a General Accounting Office report prepared this spring. In many places the infrastructure is aging; sprawling development now encroaches on many of the remote rural areas where pipes were installed decades ago. The federal agency charged with policing the pipelines is tiny, underfunded and possessed of a record that is not reassuring. The GAO found that the Office of Pipeline Safety is years behind in implementing some congressional mandates and safety recommendations from the National Transportation Safety Board. Things have improved in the last year but the NTSB, the GAO report says, still is watching to see whether promised actions will be carried out.

Bills are now pending in Congress that would address at least some safety issues. Most important, legislation would require periodic pipeline inspections. The NTSB has been asking for that since 1987, and it hasn't happened yet. The bills also would provide more information for the public, would give state inspectors a bigger role in helping monitor interstate pipelines and would require more rigorous reporting of pipeline spills, which could help identify possible trouble spots and help mitigate environmental damage. Congress should pass a strong pipeline-safety bill before this session ends. Along with it should come adequate funding to carry out its mandates. And then members should keep the heat on until it is clear the safety measures have been carried out. There's no need to wait for another blast in the night.

Mr. HOLLINGS. Mr. President, I rise today in support of S. 2438, the Pipeline Safety Improvement Act of 2000, and to support the amendment to the bill. I urge my fellow Senators to adopt the amendment and to support passage of this bill. It, indeed, will make our Nation's pipeline system safer.

The purpose of the bill is to ensure the safety of natural gas and hazardous liquid pipelines. I appreciate the considerable number of hours that went into creating this bill by all of the parties. I also am satisfied by the spirit of compromise that infused the parties' diligent efforts. As a result of their admirable and cooperative work we have a bill that reaffirms our efforts to regulate gas and hazardous liquid pipelines safely and effectively without interfering with the pipeline operators and owners ability to provide service to our Nation.

With respect to concerns regarding the existing pipeline safety program, I want to share my concerns about the delays in issuing Congressional mandates. Some may find it hard to believe that the Office of Pipeline Safety, OPS, has failed to issue final rules on measures that required rulemakings under its 1992 and 1996 reauthorizations. Unquestionably, the rules on environmentally sensitive and high density areas should have been completed by now. I have been advised that a final rule is expected this year. But even if this is the case, the fact remains that the final promulgation is still significantly behind schedule. The rules on operator qualification and periodic inspections are not final either. One of the goals of this legislation is to stimulate the finalization of these rules.

Over the past few years, we have experienced two major pipeline accidents, one in Bellingham, WA, and the other near Carlsbad, NM. While accidents happen, we need to take all necessary steps to ensure that accidents are not waiting to happen. I think that this legislation will increase the arsenal of tools available to OPS to ensure that our pipeline system is as safe as possible. I ask that OPS use the tools that we provide to ensure the aggressive oversight of pipeline safety practices.

While there were many who worked arduously to ensure passage of legislation in this area, I would like to recognize, in particular, the efforts of Senators MURRAY and BINGAMAN. Senator MURRAY doggedly pursued changes to increase the level of safety and public participation in pipeline safety, and she worked closely with other Commerce Committee members to ensure a reasonable and fair compromise. Senator BINGAMAN was instrumental in helping bolster the bills provisions on research and development. We also were able to add provisions he authored to focus our research on progressive areas that will help us develop better systems of early detection, and to ensure that we can avoid accidents such as those that occurred in Bellingham, WA, and near Carlsbad, NM.

This bill is good legislation. It will require our regulators to finalize a number of overdue regulations. The bill also allows for a greater degree of public participation in the process of pipeline safety, updates the penalties that would be levied for misconduct and provides whistle blower protection for employees who reveal misconduct. The bill also helps us focus on long-term needs so as to make our future pipeline system even safer. I urge my colleagues to support this measure.

AMENDMENT NO. 4130

(Purpose: To incorporate additional provisions in, and make minor modifications to, the bill as reported by the committee)

Mr. GORTON. Mr. President, there is an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for Mr. MCCAIN, for himself, Mr. GORTON, Mrs. MURRAY, Mr. BINGAMAN, and Mr. DOMENICI, proposes an amendment numbered 4130.

Mr. GORTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DOMENICI. Mr. President, I am pleased to support the managers' amendment to S. 2438, the bill before

the Senate, to modernize our Nation's pipeline safety programs. The issue of our country's pipeline safety regime came to the forefront again last year after the death of three teenagers in a pipeline explosion near Bellingham, WA.

Since that accident in 1999, the Senators from Washington State have worked tirelessly to bring this bill to the Senate floor for a vote. I want to commend Senator GORTON, Senator MURRAY, and the chairman of the Commerce Committee, Senator MCCAIN, for their efforts on this legislation. Without their work, patience and persistence, this bill would not be ready for passage in the Senate.

As my colleagues know, in August of this year, New Mexico experienced its own tragic pipeline explosion. Just after midnight on August 19, an El Paso Natural Gas pipeline exploded on the Pecos River near Carlsbad, NM. Twelve members of an extended family were camping near the explosion, which sent a 350-foot high ball of flame into the air. Six of the campers were killed instantly, and the remaining six have since died from their injuries. The horrific accident is the largest pipeline disaster in the State's history and one of the worst in the United States. While the NTSB is still investigating the cause of the explosion, preliminary analyses indicate that the pipeline was highly corroded, and that half of the internal wall of the pipe had been eaten away in places, apparently causing a prolonged natural gas leak.

Sadly, this accident has again placed the spotlight on the need for Congress to update our pipeline safety standards. The bill before the Senate represents a marked improvement in our existing pipeline safety program. The bill requires companies to conduct periodic internal inspections of their lines; authorizes and provides resources to allow the States to exercise a greater role in pipeline inspections and oversight; increases civil penalties against companies who violate pipeline safety laws; and provides resources for greater research and development into pipeline safety technologies, including new internal inspection mechanisms, as well as enhanced leak detection technologies.

There are over 1.8 million miles of liquid and natural gas pipelines in the United States, including 7,000 miles in New Mexico. The Federal Office of Pipeline Safety is responsible for 5,000 miles of pipeline in New Mexico and the State must inspect the remaining 1,800 miles. Yet, the New Mexico State budget for pipeline safety allows for only four inspectors, who can cover only a few miles of pipeline per day. Because of this resource shortage, hundreds of miles of underground oil and gas pipelines go uninspected each year in my state.

The bill before the Senate authorizes more funding for State inspection activities, and provides the States with greater oversight authority to inspect both intra- and interstate pipelines. States are an important partner in the regulation of oil and gas pipelines. With this bill, Congress is stepping up to the plate to help reimburse states for undertaking a greater responsibility for pipeline safety.

As my colleagues know, the bulk of the responsibility for pipeline inspection falls on the oil and gas companies themselves. In fact, the liquid and natural gas industries spend nearly $4 billion annually on pipeline safety activities. Pipeline transportation is perhaps the safest way available to move liquid and natural gas across the country. Among all the methods of transport, including pipeline, highway, rail, aviation, and marine, pipeline accident fatalities represent less than 1/333rd of one percent of the total number of annual deaths related to the industry.

Yet despite this safety record, tragic accidents do occur. I think the industry, in partnership with federal and State regulators, can do more to better protect our citizens from these kinds of accidents. This bill represents an extension of that partnership, and I believe that industry should be commended for coming to the table and helping us reach this agreement.

This bill requires companies to file ''Integrity Management Plans'' with the United States Department of Transportation. These plans will outline how the company will periodically assess the safety of their pipelines, including the use of internal inspections, pressure tests, direct assessments and any other available methods of identifying weaknesses in the pipeline and detecting leaks. In short, this provision means that for the first time, companies will be required to conduct regular pipeline inspections, and to provide information on those inspections to federal and State regulators.

Finally, Mr. President, this bill authorizes additional resources for research and development of new pipeline safety technologies through the Department of Transportation and Department of Energy. It is clear that we need to develop some new technologies to better assess the integrity of pipelines and detect leaks before they cause disaster. One of the problems with the line which exploded in Carlsbad was that conventional ''pig'' devices, which detect corrosion and leaks, could not be used to inspect that particular pipeline. We have tremendous scientific capabilities in our universities, national laboratories and in the private sector which could be tapped to help develop new and better technologies.

While everyone recognizes that Sandia and Los Alamos National Laboratories in New Mexico have great scientific capabilities which could be brought to bear on this problem, a private sector resource also exists in my home state. La-Sen Corporation in Las Cruces, NM has developed an airborne laser mapping system which can inspect hundreds of miles of oil and gas pipeline per day. I know that some of the major oil and gas companies, including El Paso Natural Gas, have seen the technology and have indicated that they would use it if it were commercially available.

I plan to work in the next several weeks to help this company find federal resources to complete development of this technology and make it commercially available as soon as possible. This is the kind of research and development that the federal government ought to encourage.

I am pleased to support passage of this bill. Even though the bill imposes new requirements on industry and provides for tougher penalties for violating the law, there are some who will say that it does not do enough to get tough on pipeline companies. In my view, the Chairman of the Commerce Committee, the Senators from Washington and other members who have worked on this bill have done an excellent job crafting a bill which will receive the unanimous support of this Senate. I hope the House will take this bill up at the earliest possible date and pass it quickly so that we can send pipeline safety legislation to the President for his signature prior to the end of the session. I yield the floor.

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4130) was agreed to.

Mr. GORTON. Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. GORTON. Impelled by an explosion last year in Bellingham, WA, that took three young lives and shook that community to its core, and given force by another recent tragedy in New Mexico, the Senate today is adopting the Pipeline Safety Improvement Act of 2000. The bill brings much-needed reforms to the regulation and oversight of the pipelines that wind invisibly beneath our homes, parks, and schools, most notably by providing more information to local governments and to the public about the location and condition of pipelines and pipeline accidents; by requiring more accountability from the Federal Office of Pipeline Safety and by authorizing more funding for that Office and for States willing to assume additional oversight responsibility; by requiring operators to assess the risks to their lines and develop plans to address threats to their integrity; by giving willing States a clearer and larger role in the oversight of interstate pipelines; by directing additional attention and resources to research and development programs to improve pipeline integrity; by increasing civil penalties for violations of pipeline safety standards;

and by requiring Federal attention to recommendations for improvements to pipeline safety by state citizen advisory committees.

The issue of citizens advisory committees has, to my surprise, been one of the most contentious. The idea of creating an independent oversight body that is not controlled by industry, and that can objectively assess the state of pipeline safety and make recommendations for improvements to Federal and State regulators, is to me perfectly sensible. The passion with which industry has opposed even a pilot program for Federal citizen advisory committees has, I confess, disturbed me and strengthened my determination to see that citizen advisory committees are established and adequately funded.

While it has become clear to me that a Federal advisory committee will not be part of any legislation that can be enacted this year—and I am absolutely determined to see that legislation is enacted—I am committed to seeing that Washington State receives adequate funding for its own Citizens Committee on Pipeline Safety, whose members were recently appointed, but which I understand has been allocated only enough funds to pay for a meeting room four times a year, hardly the resources needed to meet the responsibility this committee has been assigned.

I will work through the appropriations process this year to see that not only is funding increased for all Federal and State pipeline safety activities, but that in addition to the $800,000 I am trying to direct for Washington State's new responsibilities in overseeing pipeline safety, Washington obtains sufficient funding to staff and pay for the activities of the Citizens Committee on Pipeline Safety.

The issue of citizen advisory committees has not been the only contentious issue in this bill. Getting here has not been easy, and were it not for the efforts and dogged perseverance of Members of both sides of the aisle, most notably Senator MCCAIN, and my colleague from Washington, Senator MURRAY, we would not be here today. I am deeply grateful for their work.

Another person who has made this happen, and for whom I have developed a true respect, is Mark Asmundson, the Mayor of Bellingham, WA. Following the explosion on June 10, 1999, and with a commitment born, I believe, of justifiable anger, Mark has devoted himself to improving pipeline safety at the local, State, and Federal levels. It is people like Mark, who is committed to public welfare, passionate, practical, and resolutely good humored, and the many others who responded to the tragedy in Bellingham by taking action not only to improve their own safety, but the safety of people throughout this country, who constantly remind me how privileged I am to represent the people of Washington State.

Since the Commerce Committee passed S. 2438 in June of this year, following a factfinding hearing in Bellingham in March, I have been working to secure passage of this bill by unanimous consent as an extended debate this late in the year is impossible. The manager's amendment that was adopted today resolves concerns raised by some of my colleagues in a way that I think is fair, and, unlike some of the amendments offered and defeated in committee in a way that does not undermine the benefits of this bill.

S. 2438, as amended, is a marked improvement to the status quo. it requires the Office of Pipeline Safety to implement the recommendations of the Inspector General of the Department of Transportation by completing rulemakings that are long overdue, collecting better information to determine the causes of pipeline accidents, and providing better training to OPS inspectors. S. 2438 accelerates the deadline for operators to prepare plans for training and qualifying their employees.

The bill imposes on operators of pipelines of any length, not just longer pipelines as suggested by the administration, an obligation to conduct risk analyses and adopt integrity management plans for high consequence areas—plans that provide for periodic inspections of pipelines. It requires that information about pipeline incidents and safety-related conditions be made available to the public and lowers the threshold for reporting spills from the current 2100 gallons, to 5 gallons.

To give local officials a greater role in protecting their communities, the bill requires operators to work with local communities to educate them about the location and risks of pipelines and what to do in case of an accident. The bill increases fines for violations and protection for whistleblowers who report unsafe conditions. S. 2438 explicitly provides a role for States in the oversight of interstate pipelines and gives the Federal Office of Pipeline Safety the authority it needs to carry out the recent agreement with Washington State which will enable Washington to hire more investigators and take an active role in the oversight of interstate pipelines.

The bill provides not only more funding for the Office of Pipeline Safety and direction on areas of research and development to focus on improved safety, but also incorporates the recommendation of Senators BINGAMAN and DOMENICI to create a new cooperative research and development program for pipeline integrity that combines the resources of the Departments of Transportation and Energy under the auspices of the National Science Foundation.

The bill, in sum, while not all that I would have wished, is a vast improvement over the status quo. I am grateful to my colleagues for passing this very critical piece of legislation. And I am determined to see that it is enacted into law before the end of this Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I commend my colleagues this evening for passing the much-needed pipeline safety bill.

For too long, communities across the country—in tragedy after tragedy—have felt the impact of our Nation's inadequate pipeline safety standards.

Today, the Senate has responded with a strong bill that will help make our pipelines safer.

As pleased as I am today, I am reminded of another much darker day—June 10, 1999.

On that day, a gasoline pipeline exploded in Bellingham, WA, killing three young people, shattering a community's faith, and setting us on the road of safety reform.

I know that we can't undo what happened in Bellingham. We can't restore the loss of those families. But with this bill, we are putting the lessons we learned in Bellingham into law—and taking a first step toward ensuring America's pipelines are safe.

Unfortunately, it has taken another fatal pipeline explosion to reach this day. But it is clear that the tragedy in New Mexico raised public awareness and increased the pressure on Congress to pass this bill.

This bill will go a long way toward improving pipeline safety. Back in January—when I introduced my own pipeline safety bill—I outlined the areas that needed reform. I am proud that this bill embodies the principles I have been working for.

First, this bill will improve the qualifications and training of pipeline personnel. It requires employees to demonstrate an ability to do their job. And it requires periodic reexamination of pipeline personnel. Second, this bill improves pipeline inspections and prevention practices. It requires operators to submit pipeline integrity management plans, which State and local officials can evaluate and recommend changes to.

These plans will include: internal inspections, evaluation criteria, measures to prevent and mitigate unintended releases, and other safety activities.

Third, and importantly, this bill expands the public's right-to-know about problems with pipelines. It requires operators to make information about the pipelines and their safety practices available to local officials, emergency responders, and the public—including posting information on the Internet. It also requires more pipeline accidents to be reported to the Office of Pipeline Safety, by lowering the reporting threshold from 200 gallons to 5 gallons.

Fourth, this bill raises the penalties for safety violators. It doubles the current civil penalties for noncompliance, and it lifts the caps on maximum penalties.

Fifth, this bill enables States to expand their safety efforts. This bill allows the Secretary of Transportation

to enter into agreements that will allow States to: ''participate in special investigations involving incidents or new construction'' and to ''assume additional inspection or investigatory duties.''

Sixth, this bill invests in new technology to improve safety. It recognizes the need for R&D for new inspection devices and practices, and it authorizes a coordinated research program.

Seventh, this bill provides protections for those who blow the whistle on unsafe practices.

Eighth, this bill increases funding for safety efforts. It authorizes spending $13 million more on pipeline safety than we spend today.

Finally, this bill recognizes State citizen advisory committees and allows for their funding. These State citizen advisory committees would make recommendations to the Secretary of Transportation. The Secretary will be required to respond—in writing—to those recommendations. And, the Secretary would have to detail what actions, if any, will be taken to implement those recommendations.

Further, the bill would allow appropriations for these State advisory committees.

This is a sound bill. Under this bill, pipelines will be inspected. Operators will be qualified. Whistleblowers will be protected, and violators will be penalized. Pipeline companies will have to develop comprehensive safety and inspection plans, and States will get new authority. Citizen groups will have a role, and the public will have a right to know about the pipelines in their own communities.

This bill does not only raise pipeline safety standards. It gives us the tools, the enforcements, and the funding to ensure that pipeline companies reach those standards.

I want my constituents and my colleagues to know that I plan on remaining vigilant on this issue and ensuring that future administrations carry out the congressional mandate.

I do want to recognize tonight a few people who have helped make this day possible. First are the families of the victims of the Bellingham explosion, Frank and Mary King, Katherine Dalen and Stephen Tsiorvas, Marlene Robinson and Bruce Brabec. They have testified and worked hard. They have been courageous, and they were constant reminders of what has been lost and what this legislation will help protect.

Second, I thank the people of Bellingham, especially Mayor Mark Asmundson, who has done more than anyone I know to raise awareness about pipeline hazards.

I recognize the work of our great Governor Gary Locke. And third, I thank those in the administration who have supported our efforts; in particular, Vice President GORE, who learned about this issue during a visit to my State and who got the administration's proposal to Congress.

I also thank Transportation Secretary Rodney Slater. At my request, he promptly stationed a pipeline inspector in my State after the Bellingham explosion, and he has worked with us on this issue for more than a year. His leadership has been critical to our efforts. I thank him this evening.

I also thank DOT's Inspector General Kenneth Mead, Kelly Coyner, who is the administrator of DOT's Office of Research and Special Programs Administration, and the director of the Office of Pipeline Safety, Stacey Gerard, and her predecessor, Richard Felder.

I thank Jim Hall, Chairman of the National Transportation Safety Board.

Many groups played a role in moving this process forward. I thank the National Pipeline Reform Coalition, SAFE Bellingham, and the Cascade Columbia Alliance. I also thank everyone who testified at the numerous hearings, and the many Federal and State officials who have worked on this issue.

Finally, I thank my colleagues in the Senate, especially Commerce Committee Chairman JOHN MCCAIN, who has been stalwart in his support and has been working with us every step of the way. I thank my colleague Senator GORTON and his staff who have worked with us diligently on this issue; Senator HOLLINGS; Senator INOUYE, all the members of the Commerce Committee and their staffs, and Dale Learn from my office.

Senator BINGAMAN should also be thanked for his leadership. He made the bill stronger by adding a needed research and development amendment, which I am pleased to cosponsor.

I thank the many reporters and editorial writers who helped raise public awareness about the need to improve pipeline safety.

While we have cleared a major hurdle, our work is not finished. This bill must now pass the House of Representatives and be signed by the President. We don't have much time. Let's use today's passage to energize the efforts of the House so we can improve pipeline safety in communities across America this year.

Mr. KERRY. Mr. President, I rise to make a short statement about the Pipeline Safety Improvement Act of 2000, which the Senate will pass tonight through unanimous consent.

Mr. President, to understand this legislation, you must understand the situation from which we started. The federal government, through the Department of Transportation, regulates more than 2,000 gas pipeline operators with more than 1.3 million miles of pipe and more than 200 hazardous liquid pipeline operators with more than 156,000 miles of pipe. To protect the public safety, the environment and maintain reliability in the energy system over that massive system is an enormous challenge. I don't doubt that. The responsibility for meeting that challenge, no matter how great it is, falls upon the industry and federal government, specifically, DOT's Office of Pipeline Safety. It is clear that both OPS and the industry have failed to raise to that challenge, and we have paid a high price.

According to the OPS, since 1984, there have been approximately 5,700 natural gas and oil pipeline accidents nationwide, 54 of them in my home state of Massachusetts. In the 1990s, nearly 4,000 natural gas and oil pipeline ruptures—more than one each day—caused the deaths of 201 people, injuries to another 2,829 people, cost at least $780 million in property damages, and resulted in enormous environmental contamination and ecological damages. Two accidents in particular show us the tragic consequences of pipeline accidents. On June 10, 1999, a leaking gasoline pipeline erupted into a fireball in Bellingham, Washington. The fire extended more than one and half miles, killing two 10-year-old boys and a young man. The second accident took place in August in Carlsbad, New Mexico. A leaking natural gas pipeline erupted killing 12 members of an extended family on a camping trip. My sympathies go out to all those involved in these incidents. They are truly tragic.

The Senate Commerce Committee and others have investigated the cause of this tragic record. What we found, sadly, is that OPS was simply failing to do its job. The head of the National Transportation Safety Board, Jim Hall, gave the OPS ''a big fat F'' for its work. And as we considered the legislation in the Commerce Committee, I found that OPS had fallen short in the area of enforcement, in particular. Enforcement is the backbone of any system of safeguards designed to protect the public and the environment. Without the threat of tough enforcement, companies, the unfortunate record shows, do not consistently comply with safeguards. The resulting harm to people and places is predictable. I will not outline all of the details here today, but I recommend to anyone interested that they read the General Accounting Office's investigation into OPS dated May 2000.

The Pipeline Safety Improvement Act of 2000 includes enforcement reforms and enhances the role of OPS and the Department of Justice in enforcement. These provisions, which I proposed in the Commerce Committee, will, I believe, put some teeth into our pipeline safety laws. They include raising the maximum fines that OPS can assess a company from $500,000 to $1,000,000; ensuring that companies cannot profit from noncompliance; clarifying the law regarding one-call services; and allowing DOJ, at the request of DOT, to seek civil penalties in court to ensure that serious violators can be punished to the fullest extent of the law.

The bill makes other significant improvements to existing law. My colleagues from Washington, Mr. GORTON and Mrs. MURRAY have outlined many of these improvements and how they will improve pipeline safety. However,

Mr. President, S. 2438, despite significant improvements, also falls short in some areas. This is, in part, a reflection of inadequacy of current protections. It is my hope that further improvements can be made in conference with House and in discussions with the Clinton Administration. These improvements include allowing OPS to delegate enforcement to states as we do with the Clean Air Act and other laws; establishing federal standards for testing, re-testing, and repairs, leak detection, emergency shut-off valves, and failsafe mechanisms to prevent over pressurization; establishing federal standards to improve corrosion prevention; and removing the cost-benefit provisions incorporated into the law during the 1996 reauthorization, which may limit development of pipeline safety standards by requiring any new standards to meet economic and judicial tests that no other federal agency's regulations must meet.

I do not mean to detract from the hard work of Mr. MCCAIN, Mr. HOLLINGS, Mr. GORTON, Mrs. MURRAY, Mr. BINGAMAN and Mr. DOMENICI with my remarks. They have done great work crafting this bill and bringing it before the Senate for passage tonight. The public and the environment will be better protected thanks to their work.

SECTION 10(B)

Mr. HOLLINGS. Mr. President, I rise along with my colleagues Mr. BROWNBACK and Mr. KERRY to make clear the intent of certain provisions in the Pipeline Safety Improvement Act of 2000. It has come to my attention that there may be some ambiguities contained in the language of Section 10(b) of the proposed legislation (S. 2438). As you are aware, Section 10(b) of the bill adds a new provision—Section 60117(b)(3)—to the Revised Pipeline Safety Act. This provision requires that, during the course of an incident investigation, a pipeline owner or operator make records, reports, and information relevant to the incident investigation available to the Secretary upon request within the time limits prescribed in a written request. The bill incorporates by reference this new section into both the civil and criminal penalties sections of the Act, Sections 60122(a) and 60123(a), respectively. Under the current proposal, failure to comply with this reporting provision can result in civil penalties of up to $500,000 for each violation and $1,000,000 for a related series of violations. And, a separate violation occurs for each day the violation continues.

Civil penalties are capped at a maximum of $500,000 per day and $1,000,000 for a ''related series of violations.'' The information required to be produced during an investigation pursuant to Section 60117(b)(3) is limited to information ''relevant to [a particular] incident investigation.'' I am seeking clarification that all information requests issued by the Secretary pursuant to a single incident investigation are considered ''related'' for purposes of calculating the $1,000,000 civil penalty cap for a ''related series of violations'' under Section 60122(a). In other words, the provision would not treat each written information request as a separate and unrelated event for purposes of applying the $1,000,000 cap so long as all of the requests concern the same incident. Were that not the case, a pipeline owner or operator that receives numerous document requests relating to an incident, but is unable to assemble and provide all of the information in time to meet the Secretary's deadline, could face fines far exceeding the $1,000,000 contemplated by this legislation.

Mr. KERRY. I thank my friend, Mr. HOLLINGS, for his question. It is the intention of this legislation to treat all information requests pursuant to a single incident investigation as ''related'' for purposes of applying the civil penalty cap under Section 60122(a). To increase the incentive for pipeline companies to cooperate during an agency investigation, the cap has been increased to $1,000,000 for a related series of violations. That $1,000,000 cap is not intended to separately apply to each and every information request—of which there could be many—but rather serves as a restriction on the total amount of civil penalties applicable to a particular incident for failure to comply with the reporting requirement of Section 60117(b)(3).

Mr. BROWNBACK. Mr. President, I would like to clarify an additional provision of the legislation. It is my understanding that Section 60117(b)(3) is aimed at penalizing pipeline companies that either refuse to turn over records, reports, or information concerning an incident that is identified in a written request from the Secretary or refuse to produce the records, reports or information in a timely fashion. While it is critically important to ensure that companies actively aid the agency's investigative process by promptly providing information related to an incident, there may be situations where a company goes to great lengths to cooperate with an investigation, but for a variety of reasons falls short of fully satisfying the requirements of Section 60117(b)(3). For example, the information solicited in a written request may be unclear or otherwise subject to multiple interpretations. A company may promptly provide the information that it believes to be fully responsive to the request only to find out later that the information is somehow deficient either because it is incomplete, in a different form, or of a different character than that contemplated by the agency. In these situations, despite the best of intentions, a company may find out many days or weeks later that it is nonetheless subject to cumulative daily civil penalties. I am seeking clarification that Section 60117(b)(3) is intended only to cover those situations where the information that the Secretary seeks is clear, but the company refuses to provide the information at all or within the time prescribed in the written request—not situations where a company makes a good faith effort to meet the requirement but is deemed to have failed because of a written request for information this is subject to interpretation or ambiguously written.

Mr. KERRY. Mr, President, my friend, Mr. BROWNBACK, is correct that it is the intention of Section 60117(b)(3) to reach those companies that don't comply with a clearly written request for documents and information from the agency, but thwart the investigative process either by refusing to turn over relevant information or by dragging their feet in providing it. The bill does not contemplate that this penalty provision will be applied to a company that actively cooperates in an investigation and makes a good faith effort to provide all of the information requested only to find out later that, because of an ambiguously or poorly written request, the company technically failed to meet the requirements of Section 60117(b)(3).

Mr. BINGAMAN. I commend Chairman MCCAIN, Senator HOLLINGS and the members of the Commerce Committee for moving expeditiously to pass this Pipeline Safety Reauthorization bill. The bill includes requirements for each pipeline to develop an integrity management plan to address the specific circumstances of each individual pipeline. There is reference in the Pipeline Safety Act, and the amendments, to circumstances such as pipelines in environmentally sensitive and densely populated areas warranting special attention, but no reference to pipelines that are attached to bridges at such places as river crossings or in other exposed circumstances. The tragic accident in my State of New Mexico was adjacent to a river crossing. The rupture occurred along a buried section of the pipe just before the pipe emerged and was attached to the bridge. I am very concerned that these pipelines are vulnerable to many different types of damage, including even that from a hunter's stray bullet or an auto accident. I would like to ask the chairman and members of the committee whether these exposed pipes on bridges are a category given special attention?

Mr. GORTON. Unlike inspections conducted on overland sections of pipeline, the inspector would need specialized knowledge to properly determine the structural integrity and soundness of, say, a cable suspension bridge, in addition to that of the pipeline. This would probably include an understanding of and training in: steel fabrication, structural engineering fundamentals, pipeline behavior under operating pressure, the characteristics of all cable types used in suspension bridges, and the characteristics of reinforced concrete foundation structures.

Mr. MCCAIN. The committee has worked to ensure all pipelines are covered under the provisions of this legislation, including the more uniquely located pipelines mentioned by my colleagues. The bill requires the agency's technical experts, in conjunction with the industry, to develop specific plans to ensure the integrity of all pipelines. In addition, it requires that operators and inspectors are properly trained to be aware of, and proactively assess, the vulnerabilities of such pipelines in different circumstances, including exposed pipelines.

Mr. GORTON. Regardless of location, type of pipeline, size or terrain, a program to maintain and inspect the integrity of all pipelines is required to ensure the public safety, environmental protection and reliability of the infrastructure. In fact, the agency should be consulting with the bridge inspection specialists in the various other Federal and State agencies.

Mr. BINGAMAN. I thank the Senators for that clarification.

Mr. GORTON. Mr. President, I ask unanimous consent that the bill be read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2438), as amended, was read the third time and passed, as follows:

S. 2438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Pipeline Safety Improvement Act of 2000''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this Act, the Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT–2000–069).

(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) REPORTS BY THE INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the Committees referred to in subsection (b) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 3. NTSB SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in sections 1135 (a) and (b) of title 49, United States Code, available to the public at reasonable cost.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to the Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

SEC. 4. QUALIFICATIONS OF PIPELINE PERSONNEL.

(a) QUALIFICATION PLAN.—Each pipeline operator shall make available to the Secretary of Transportation, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be made available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.

(b) REQUIREMENTS.—The enhanced qualification plan shall include, at a minimum, criteria to demonstrate the ability of an individual to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the plans to ensure the continuation of a safe operation. The Secretary may establish minimum standards for pipeline personnel training and evaluation, which may include written examination, oral examination, work performance history review, observation during performance on the job, on the job training, simulations, or other forms of assessment.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall submit a report to the Congress evaluating the effectiveness of operator qualification and training efforts, including—

(A) actions taken by inspectors;

(B) recommendations made by inspectors for changes to operator qualification and training programs; and

(C) industry responses to those actions and recommendations.

(2) CRITERIA.—The Secretary may establish criteria for use in evaluating and reporting on operator qualification and training for purposes of this subsection.

(3) DUE DATE.—The Secretary shall submit the report required by paragraph (1) to the Congress 3 years after the date of enactment of this Act.

SEC. 5. PIPELINE INTEGRITY INSPECTION PROGRAM.

Section 60109 is amended by adding at the end the following:

''(c) INTEGRITY MANAGEMENT.—

''(1) GENERAL REQUIREMENT.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to evaluate the risks to the operator's pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those areas. The regulations shall be issued no later than one year after the Secretary has issued standards pursuant to subsections (a) and (b) of this section or by December 31, 2001, whichever is sooner.

''(2) STANDARDS FOR PROGRAM.—In promulgating regulations under this section, the Secretary shall require an operator's integrity management plan to be based on risk analysis and each plan shall include, at a minimum—

''(A) periodic assessment of the integrity of the pipeline through methods including internal inspection, pressure testing, direct assessment, or other effective methods;

''(B) clearly defined criteria for evaluating the results of the periodic assessment methods carried out under subparagraph (A) and procedures to ensure identified problems are corrected in a timely manner; and

''(C) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive flow devices, or other measures.

''(3) CRITERIA FOR PROGRAM STANDARDS.—In deciding how frequently the integrity assessment methods carried out under paragraph (2)(A) must be conducted, an operator shall take into account the potential for new defects developing or previously identified structural defects caused by construction or installation, the operational characteristics of the pipeline, and leak history. In addition, the Secretary may establish a minimum testing requirement for operators of pipelines to conduct internal inspections.

''(4) STATE ROLE.—A State authority that has an agreement in effect with the Secretary under section 60106 is authorized to review and assess an operator's risk analyses and integrity management plans required under this section for interstate pipelines located in that State. The reviewing State authority shall provide the Secretary with a written assessment of the plans, make recommendations, as appropriate, to address safety concerns not adequately addressed in the operator's plans, and submit documentation explaining the State-proposed plan revisions. The Secretary shall carefully consider the State's proposals and work in consultation with the States and operators to address safety concerns.

''(5) MONITORING IMPLEMENTATION.—The Secretary of Transportation shall review the risk analysis and program for integrity management required under this section and provide for continued monitoring of such plans. Not later than 2 years after the implementation of integrity management plans under this section, the Secretary shall complete an assessment and evaluation of the effects on safety and the environment of extending all of the requirements mandated by the regulations described in paragraph (1) to additional areas. The Secretary shall submit the assessment and evaluation to Congress along with any recommendations to improve and expand the utilization of integrity management plans.

''(6) OPPORTUNITY FOR LOCAL INPUT ON INTEGRITY MANAGEMENT.—Within 18 months after the date of enactment of the Pipeline Safety Improvement Act of 2000, the Secretary shall, by regulation, establish a process for raising and addressing local safety

concerns about pipeline integrity and the operator's pipeline integrity plan. The process shall include—

''(A) a requirement that an operator of a hazardous liquid or natural gas transmission pipeline facility provide information about the risk analysis and integrity management plan required under this section to local officials in a State in which the facility is located;

''(B) a description of the local officials required to be informed, the information that is to be provided to them and the manner, which may include traditional or electronic means, in which it is provided;

''(C) the means for receiving input from the local officials that may include a public forum sponsored by the Secretary or by the State, or the submission of written comments through traditional or electronic means;

''(D) the extent to which an operator of a pipeline facility must participate in a public forum sponsored by the Secretary or in another means for receiving input from the local officials or in the evaluation of that input; and

''(E) the manner in which the Secretary will notify the local officials about how their concerns are being addressed.''.

SEC. 6. ENFORCEMENT.

(a) IN GENERAL.—Section 60112 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides that—

''(1) operation of the facility is or would be hazardous to life, property, or the environment; or

''(2) the facility is, or would be, constructed or operated, or a component of the facility is, or would be, constructed or operated with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.''; and

(2) by striking ''is hazardous,'' in subsection (d) and inserting ''is, or would be, hazardous,''.

SEC. 7. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS, AND COMMUNITY RIGHT TO KNOW.

(a) Section 60116 is amended to read as follows:

''§ 60116. Public education, emergency preparedness, and community right to know

''(a) PUBLIC EDUCATION PROGRAMS.—

''(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

''(2) Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2000, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

''(3) The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.

''(b) EMERGENCY PREPAREDNESS.—

''(1) OPERATOR LIAISON.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2000, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain liaison with the State emergency response commissions, and local emergency planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates.

''(2) INFORMATION.—An operator shall, upon request, make available to the State emergency response commissions and local emergency planning committees, and shall make available to the Office of Pipeline Safety in a standardized form for the purpose of providing the information to the public, the information described in section 60102(d), the operator's program for integrity management, and information about implementation of that program. The information about the facility shall also include, at a minimum—

''(A) the business name, address, telephone number of the operator, including a 24-hour emergency contact number;

''(B) a description of the facility, including pipe diameter, the product or products carried, and the operating pressure;

''(C) with respect to transmission pipeline facilities, maps showing the location of the facility and, when available, any high consequence areas which the pipeline facility traverses or adjoins and abuts;

''(D) a summary description of the integrity measures the operator uses to assure safety and protection for the environment; and

''(E) a point of contact to respond to questions from emergency response representative.

''(3) SMALLER COMMUNITIES.—In a community without a local emergency planning committee, the operator shall maintain liaison with the local fire, police, and other emergency response agencies.

''(4) PUBLIC ACCESS.—The Secretary shall prescribe requirements for public access, as appropriate, to this information, including a requirement that the information be made available to the public by widely accessible computerized database.

''(c) COMMUNITY RIGHT TO KNOW.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2000, and annually thereafter, the owner or operator of each gas transmission or hazardous liquid pipeline facility shall provide to the governing body of each municipality in which the pipeline facility is located, a map identifying the location of such facility. The map may be provided in electronic form. The Secretary may provide technical assistance to the pipeline industry on developing public safety and public education program content and best practices for program delivery, and on evaluating the effectiveness of the programs. The Secretary may also provide technical assistance to State and local officials in applying practices developed in these programs to their activities to promote pipeline safety.

''(d) PUBLIC AVAILABILITY OF REPORTS.—The Secretary shall—

''(1) make available to the public—

''(A) a safety-related condition report filed by an operator under section 60102(h);

''(B) a report of a pipeline incident filed by an operator;

''(C) the results of any inspection by the Office of Pipeline Safety or a State regulatory official; and

''(D) a description of any corrective action taken in response to a safety-related condition reported under subparagraph (A), (B), or (C); and

''(2) prescribe requirements for public access, as appropriate, to integrity management program information prepared under this chapter, including requirements that will ensure data accessibility to the greatest extent feasible.''.

(b) SAFETY CONDITION REPORTS.—Section 60102(h)(2) is amended by striking ''authorities.'' and inserting ''officials, including the local emergency responders.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:

''60116. Public education, emergency preparedness, community right to know.''.

SEC. 8. PENALTIES.

(a) CIVIL PENALTIES.—Section 60122 is amended—

(1) by striking ''$25,000'' in subsection (a)(1) and inserting ''$500,000'';

(2) by striking ''$500,000'' in subsection (a)(1) and inserting ''$1,000,000'';

(3) by adding at the end of subsection (a)(1) the following: ''The preceding sentence does not apply to judicial enforcement action under section 60120 or 60121.''; and

(4) by striking subsection (b) and inserting the following:

''(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—

''(1) the Secretary shall consider—

''(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

''(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, any effect on ability to continue doing business; and

''(C) good faith in attempting to comply; and

''(2) the Secretary may consider—

''(A) the economic benefit gained from the violation without any discount because of subsequent damages; and

''(B) other matters that justice requires.''.

(b) EXCAVATOR DAMAGE.—Section 60123(d) is amended—

(1) by striking ''knowingly and willfully'';

(2) by inserting ''knowingly and willfully'' before ''engages'' in paragraph (1); and

(3) striking paragraph (2)(B) and inserting the following:

''(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or''.

(c) CIVIL ACTIONS.—Section 60120(a)(1) is amended to read as follows:

''(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112 of this chapter, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same factors as prescribed for the Secretary in an administrative case under section 60122.''.

SEC. 9. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) by striking ''GENERAL AUTHORITY.—'' in subsection (a) and inserting ''AGREEMENTS WITHOUT CERTIFICATION.—'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and

(3) by inserting after subsection (a) the following:

''(b) AGREEMENTS WITH CERTIFICATION.—

''(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 of this title and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.

''(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines that—

''(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

''(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

''(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

''(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

''(3) EXISTING AGREEMENTS.—If requested by the State Authority, the Secretary shall authorize a State Authority which had an interstate agreement in effect after January, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2001, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2000 if—

''(A) the State Authority fails to comply with the terms of the agreement;

''(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State Authority; or

''(C) continued participation by the State Authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.''.

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106, as redesignated by subsection (a), is amended to read as follows:

''(e) ENDING AGREEMENTS.—

''(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

''(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

''(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

''(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

''(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

''(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give the notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.''.

SEC. 10. IMPROVED DATA AND DATA AVAILABILITY.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Secretary shall develop and implement a comprehensive plan for the collection and use of gas and hazardous liquid pipeline data to revise the causal categories on the incident report forms to eliminate overlapping and confusing categories and include subcategories. The plan shall include components to provide the capability to perform sound incident trend analysis and evaluations of pipeline operator performance using normalized accident data.

(b) REPORT OF RELEASES EXCEEDING 5 GALLONS.—Section 60117(b) is amended—

(1) by inserting ''(1)'' before ''To'';

(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(3) inserting before the last sentence the following:

''(2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release to the environment greater than five gallons of the hazardous liquid or carbon dioxide transported. This section applies to releases from pipeline facilities regulated under this chapter. A report must include the location of the release, fatalities and personal injuries, type of product, amount of product release, cause or causes of the release, extent of damage to property and the environment, and the response undertaken to clean up the release.

''(3) During the course of an incident investigation, a person owning or operating a pipeline facility shall make records, reports, and information required under subsection (a) of this section or other reasonably described records, reports, and information relevant to the incident investigation, available to the Secretary within the time limits prescribed in a written request.''; and

(4) indenting the first word of the last sentence and inserting ''(4)'' before ''The Secretary'' in that sentence.

(c) PENALTY AUTHORITIES.—(1) Section 60122(a) is amended by striking ''60114(c)'' and inserting ''60117(b)(3)''.

(2) Section 60123(a) is amended by striking ''60114(c),'' and inserting ''60117(b)(3),''.

(d) ESTABLISHMENT OF NATIONAL DEPOSITORY.—Section 60117 is amended by adding at the end the following:

''(l) NATIONAL DEPOSITORY.—The Secretary shall establish a national depository of data on events and conditions, including spill histories and corrective actions for specific incidents, that can be used to evaluate the risk of, and to prevent, pipeline failures and releases. The Secretary shall administer the program through the Bureau of Transportation Statistics, in cooperation with the Research and Special Programs Administration, and shall make such information available for use by State and local planning and emergency response authorities and the public.''.

SEC. 11. RESEARCH AND DEVELOPMENT.

(a) INNOVATIVE TECHNOLOGY DEVELOPMENT.—

(1) IN GENERAL.—As part of the Department of Transportation's research and development program, the Secretary of Transportation shall direct research attention to the development of alternative technologies—

(A) to expand the capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

(C) to develop innovative techniques measuring the structural integrity of pipelines;

(D) to improve the capability, reliability, and practicality of external leak detection devices; and

(E) to develop and improve alternative technologies to identify and monitor outside force damage to pipelines.

(2) COOPERATIVE.—The Secretary may participate in additional technological development through cooperative agreements with trade associations, academic institutions, or other qualified organizations.

(b) PIPELINE SAFETY AND RELIABILITY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program—

(A) shall include materials inspection techniques, risk assessment methodology, and information systems surety; and

(B) shall complement, and not replace, the research program of the Department of Energy addressing natural gas pipeline issues existing on the date of enactment of this Act.

(2) PURPOSE.—The purpose of the cooperative research program shall be to promote pipeline safety research and development to—

(A) ensure long-term safety, reliability and service life for existing pipelines;

(B) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(C) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(D) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(E) develop improved materials and coatings for use in pipelines;

(F) improve the capability, reliability, and practicality of external leak detection devices;

(G) identify underground environments that might lead to shortened service life;

(H) enhance safety in pipeline siting and land use;

(I) minimize the environmental impact of pipelines;

(J) demonstrate technologies that improve pipeline safety, reliability, and integrity;

(K) provide risk assessment tools for optimizing risk mitigation strategies; and

(L) provide highly secure information systems for controlling the operation of pipelines.

(3) AREAS.—In carrying out this subsection, the Secretary of Transportation, in

coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil and petroleum product pipelines for—

(A) early crack, defect, and damage detection, including real-time damage monitoring;

(B) automated internal pipeline inspection sensor systems;

(C) land use guidance and set back management along pipeline rights-of-way for communities;

(D) internal corrosion control;

(E) corrosion-resistant coatings;

(F) improved cathodic protection;

(G) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(H) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(I) longer life, high strength, non-corrosive pipeline materials;

(J) assessing the remaining strength of existing pipes;

(K) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative;

(L) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(M) any other areas necessary to ensuring the public safety and protecting the environment.

(4) POINTS OF CONTACT.—

(A) IN GENERAL.—To coordinate and implement the research and development programs and activities authorized under this subsection—

(i) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department of Transportation who has been appointed by the President and confirmed by the Senate; and

(ii) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy who has been appointed by the President and confirmed by the Senate.

(B) DUTIES.—

(i) The point of contact for the Department of Transportation shall have the primary responsibility for coordinating and overseeing the implementation of the research, development, and demonstration program plan under paragraphs (5) and (6).

(ii) The points of contact shall jointly assist in arranging cooperative agreements for research, development and demonstration involving their respective Departments, national laboratories, universities, and industry research organizations.

(5) RESEARCH AND DEVELOPMENT PROGRAM PLAN.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a 5-year program plan to guide activities under this subsection. In preparing the program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(6) IMPLEMENTATION.—The Secretary of Transportation shall have primary responsibility for ensuring the 5-year plan provided for in paragraph (5) is implemented as intended. In carrying out the research, development, and demonstration activities under this paragraph, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(7) REPORTS TO CONGRESS.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Departments of Transportation and Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.

SEC. 12. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the 5-year research, development, and demonstration program plan under section 11(b)(5). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under that section.

(b) MEMBERSHIP.—The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical contributions to the purposes of the Advisory Committee.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUIDS.—Section 60125(a) is amended to read as follows:

''(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter and other pipeline-related damage prevention activities of this title (except for section 60107), there are authorized to be appropriated to the Department of Transportation—

''(1) $26,000,000 for fiscal year 2001, of which $20,000,000 is to be derived from user fees for fiscal year 2001 collected under section 60301 of this title; and

''(2) $30,000,000 for each of the fiscal years 2002 and 2003 of which $23,000,000 is to be derived from user fees for fiscal year 2002 and fiscal year 2003 collected under section 60301 of this title.''.

(b) GRANTS TO STATES.—Section 60125(c) is amended to read as follows:

''(c) STATE GRANTS.—Not more than the following amounts may be appropriated to the Secretary to carry out section 60107—

''(1) $17,000,000 for fiscal year 2001, of which $15,000,000 is to be derived from user fees for fiscal year 2001 collected under section 60301 of this title; and

''(2) $20,000,000 for the fiscal years 2002 and 2003 of which $18,000,000 is to be derived from user fees for fiscal year 2002 and fiscal year 2003 collected under section 60301 of this title.''.

(c) OIL SPILLS.—Sections 60525 is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), (g) and inserting after subsection (c) the following:

''(d) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to carry out programs authorized in this Act for fiscal year 2001, fiscal year 2002, and fiscal year 2003.''.

(d) PIPELINE INTEGRITY PROGRAM.—(1) There are authorized to be appropriated to the Secretary of Transportation for carrying out sections 11(b) and 12 of this Act $3,000,000, to be derived from user fees under section 60125 of title 49, United States Code, for each of the fiscal years 2001 through 2005.

(2) Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation to carry out programs for detection, prevention and mitigation of oil spills under sections 11(b) and 12 of this Act for each of the fiscal years 2001 through 2005.

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out sections 11(b) and 12 of this Act such sums as may be necessary for each of the fiscal years 2001 through 2005.

SEC. 14. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—If the Department of Transportation or the National Transportation Safety Board investigate an accident, the operator involved shall make available to the representative of the Department or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.

(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—

(1) by inserting ''(1)'' after ''CORRECTIVE ACTION ORDERS.—''; and

(2) by adding at the end the following:

''(2) If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until—

''(A) the Secretary determines that the employee's performance of duty in carrying out the activity did not contribute substantially to the cause of the accident; or

''(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 4 of the Pipeline Safety Improvement Act of 2000 and can safely perform those activities.

''(3) Disciplinary action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement to the extent it is not inconsistent with the requirements of this section.''.

SEC. 15. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

''§ 60129. Protection of employees providing pipeline safety information

''(a) DISCRIMINATION AGAINST PIPELINE EMPLOYEES.—No pipeline operator or contractor or subcontractor of a pipeline may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

''(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

''(3) testified or is about to testify in such a proceeding; or

''(4) assisted or participated or is about to assist or participate in such a proceeding.

''(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Research and Special Programs Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

''(i) take affirmative action to abate the violation;

''(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

''(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

''(4) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

''(6) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

''(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award costs is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a pipeline, contractor or subcontractor who, acting without direction from the pipeline contractor or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

''(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for a pipeline.''.

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

''(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by adding at the end the following:

''60129. Protection of employees providing pipeline safety information.''.

SEC. 16. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

SEC. 17. FINES AND PENALTIES.

The Inspector General of the Department of Transportation shall conduct an analysis of the Department's assessment of fines and penalties on gas transmission and hazardous liquid pipelines, including the cost of corrective actions required by the Department in

lieu of fines, and, no later than 6 months after the date of enactment of this Act, shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on any findings and recommendations for actions by the Secretary or Congress to ensure the fines assessed are an effective deterrent for reducing safety risks.

SEC. 18. STUDY OF RIGHTS-OF-WAY.

The Secretary of Transportation is authorized to conduct a study on how best to preserve environmental resources in conjunction with maintaining pipeline rights-of-way. The study shall recognize pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

SECURITY ASSISTANCE ACT OF 2000

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 696, S. 2901.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2901) to authorize appropriations to carry out security assistance for fiscal year 2001, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GORTON. Mr. President, I ask unanimous consent that the bill be read the third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2901) was read the third time.

Mr. GORTON. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 4919. I further ask consent that the Senate proceed to its consideration, all after the enacting clause be stricken, and the text of S. 2901 be inserted in lieu thereof. I ask that the bill then be read the third time and passed, as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

Further, I ask unanimous consent that the Senate then insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate and, finally, that S. 2901 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4919), as amended, was read the third time and passed.

The PRESIDING OFFICER (Mr. ROBERTS) appointed Mr. HELMS, Mr. LUGAR, Mr. HAGEL, Mr. BIDEN, and Mr. SARBANES conferees on the part of the Senate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the nominations reported by the Armed Services Committee during today's session.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Charles R. Holland, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Glen W. Moorhead, III, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Norton A. Schwartz, 0000

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Daniel J. Petrosky, 0000

The following named officer for appointment as The Surgeon General, United States Army, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 3036:

To be lieutenant general

Maj. Gen. James B. Peake, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601, and as a Senior Member of the Military Staff Committee of the United Nations under title 10, U.S.C., Section 711:

To be lieutenant general

Maj. Gen. John P. Abizaid, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward G. Anderson, III, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Bryan D. Brown, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. William P. Tangney, 0000

MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Peter Pace, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael P. Delong, 0000

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Walter F. Doran, 0000

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE READ THE FIRST TIME—S. 3021

Mr. GORTON. Mr. President, I understand that S. 3021 is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3021) to provide that a certification of the cooperation of Mexico with United States counter-drug efforts not be required in fiscal year 2001 for the limitation on assistance for Mexico under section 490 of the Foreign Assistance Act of 1961 not to go into effect in that fiscal year.

Mr. GORTON. I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk until its second reading.

NOMINATIONS PLACED ON THE CALENDAR

Mr. GORTON. Mr. President, as in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the nominations of Senator BIDEN and Senator GRAMS to be representatives to the General Assembly of the United Nations and, further, that the nominations be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, SEPTEMBER 8, 2000

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Friday, September 8. I further ask that on

Friday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume debate on H.R. 4444, the China PNTR legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GORTON. Mr. President, at 10 a.m., the Senate will resume debate on the China trade bill. Amendments are expected to be offered and debated throughout the day. As previously announced, there will be no votes during tomorrow's session of the Senate. Therefore, any votes ordered with respect to the China PNTR bill will be scheduled to occur on Monday or Tuesday of next week. If significant progress can be made during tomorrow's session, votes may be delayed until Tuesday morning, September 12. Therefore, those Senators who have amendments to H.R. 4444 are encouraged to come to the floor during Friday's session.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:59 p.m., adjourned until Friday, September 8, 2000, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 7, 2000:

DEPARTMENT OF DEFENSE

ROBERT B. PIRIE, JR., OF MARYLAND, TO BE UNDER SECRETARY OF THE NAVY, VICE JERRY MACARTHUR HULTIN, RESIGNED.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

FREDERICK G. SLABACH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2005, VICE NORMAN I. MALDONADO, TERM EXPIRED.

THE JUDICIARY

VALERIE K. COUCH, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA, VICE WAYNE E. ALLEY, RETIRED.

MARIAN MCCLURE JOHNSTON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA, VICE LAWRENCE K. KARLTON, RETIRED.

STATE JUSTICE INSTITUTE

DAVID A. NASATIR, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2003, VICE TERRENCE B. ADAMSON, TERM EXPIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS OF THE UNITED STATES COAST GUARD TO BE MEMBERS OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 188:

TO BE LIEUTENANT

MICHAEL J. CORL, 0000
GREGORY J. HALL, 0000

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSON OF THE AGENCY INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

GUY EDGAR OLSON, OF ILLINOIS
LOUIS M. POSSANZA, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

JOSEPH LOPEZ, OF FLORIDA
KURT F. SEIFARTH, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

KEREM SERDAR BILGE, OF CALIFORNIA
WILLIAM JOSEPH BISTRANSKY, OF VIRGINIA
MATTHEW DAVID CHRIST, OF NEW HAMPSHIRE
MARC ADRIAN COLLINS, OF NEW JERSEY
MARK W. CULLINANE, OF TEXAS
GREGORY S. D'ELIA, OF NEW YORK
STEVEN H. FAGIN, OF NEW JERSEY
CARL BENJAMIN FOX, OF CALIFORNIA
GRAHAM D. MAYER, OF VIRGINIA
VICTOR MYEV, OF CALIFORNIA
DWIGHT D. NYSTROM, OF ALABAMA
A. JAMES PANOS, OF CALIFORNIA
SHANNON M. ROSS, OF WASHINGTON
LESLIE C. SCHAAR, OF TEXAS
STEPHEN FLETCHER STEGER, OF MISSOURI
MICHAEL SULLIVAN, OF VIRGINIA
WILLIAM D. SWANEY, OF VERMONT
INGER ANN TANGBORN, OF WASHINGTON
SONYA M. TSIROS, OF FLORIDA
JENNIFER DE WITT WALSH, OF WYOMING
TAMIR GLENN WASER, OF VIRGINIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ELIZA FERGUSON AL-LAHAM, OF MARYLAND
JACK R. ANDERSON, OF MINNESOTA
MATTHEW C. AUSTIN, OF WASHINGTON
MARK D. BARON, OF CALIFORNIA
STACY MARIE BARRIOS, OF LOUISIANA
JULIA LOUISE BATE, OF OHIO
CHAD JONATHAN BERBERT, OF UTAH
BRADLY S. BISHOP, OF VIRGINIA
ANDREW GOSS BOYD, OF THE DISTRICT OF COLUMBIA
MATTHEW MARTIN BOYNTON, OF VIRGINIA
MATTHEW T. BRADLEY, OF VIRGINIA
ROBIN A. BRADLEY, OF MARYLAND
CLINTON STEWART BROWN, OF NEW YORK
ROB L. BUCKLEY, OF FLORIDA
MICHAEL PATRICK CRAGUN, OF OREGON
TERENCE DARNELL CURRY, OF THE DISTRICT OF COLUMBIA
KERRY L. DEMUSZ, OF PENNSYLVANIA
MICHAEL JOHN DOLLAR, OF VIRGINIA
CATHLEEN L. DUNFORD, OF THE DISTRICT OF COLUMBIA
POLLY ANN EMERICK, OF WASHINGTON
JOHN M. ENT, OF VIRGINIA
ROBERT A. FENSTERMACHER, OF MARYLAND
YARYNA N. FERENCEVYCH, OF NEW JERSEY
JOHN M. FLEMING, OF MARYLAND
JAMES H. FLOWERS, OF TEXAS
NINI J. FORINO, OF NEW YORK
GREGORY GAINES, OF VIRGINIA
CHRISTOPHER A. GOW, OF VIRGINIA
RICHARD GRAY, OF CALIFORNIA
LANCE K. HEGERLE, OF CALIFORNIA
JUSTIN HIGGINS, OF THE DISTRICT OF COLUMBIA
CHRISTOPHER W. HODGES, OF GEORGIA
ROBERT M. HOLLISTER JR., OF TENNESSEE
KENNETH HOLTZMAN, OF VIRGINIA
ABU JAFAR, OF VIRGINIA
AARON WAYNE JENSEN, OF OREGON
MICHELLE L. JONES, OF OHIO
KIT ALLISON JUNGE, OF WASHINGTON
PENELOPE M. KALOGEROPOULOS, OF VIRGINIA
GABRIEL M. KAYPAGHIAN, OF CALIFORNIA
ELIZABETH A. KESSLER, OF THE DISTRICT OF COLUMBIA
BRENTON E. KIDD, OF VIRGINIA
HAKYUNG KIM, OF VIRGINIA
JOHN OLIVER KINDER, OF VIRGINIA
MICHAEL B. KOLODNER, OF PENNSYLVANIA
ALEXEI THOMAS KRAL, OF NEW YORK
MATTHEW W. KURLINSKI, OF VIRGINIA
WANDA M. LANE, OF VIRGINIA
W. STANLEY LANGSTON, OF VIRGINIA
LINDA BERYL LEE, OF WASHINGTON
DUNJA LEPUSIC, OF VIRGINIA
J. AUSTIN LYBRAND IV, OF NORTH CAROLINA
KRISTOPHER W. MC CAHON, OF VIRGINIA
JO L. MC WHORTER, OF VIRGINIA
LAURIE J. MEININGER, OF CALIFORNIA
MARK MERRITT, OF VIRGINIA
JOSEPH L. MONTIE, OF VIRGINIA
MARK R. NACHTRIEB, OF MARYLAND
TREVOR WARREN NELSON, OF VIRGINIA
DONALD J. NERKOSWKI, OF NORTH CAROLINA
MARIA CRISTINA NOVO, OF FLORIDA
VINCENT J. O'BRIEN, OF FLORIDA
JAMES M. PERIARD, OF CALIFORNIA
MARISA L. PLOWDEN, OF NEVADA
MICHAEL RADT, OF VIRGINIA
DOUGLAS EUGENE SONNEK, OF CALIFORNIA
CAROL MILLARD STONE, OF VIRGINIA
JEFFREY H. STONER, OF VIRGINIA
NINA C. SUGHRUE, OF THE DISTRICT OF COLUMBIA
ELIA ENITH TELLO, OF NORTH DAKOTA
BARBARA M. THOMAS, OF MINNESOTA
JOHN KOKE WATSON, OF VIRGINIA
STEPHANIE A. WICKES, OF VIRGINIA
L. KIRK WOLCOTT, OF WASHINGTON
HENRY THOMAS WOOSTER, OF VIRGINIA

SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ROBERTA ANN JACOBSON, OF MARYLAND

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE AS INDICATED, EFFECTIVE NOVEMBER 21, 1999:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

DEPARTMENT OF STATE

JAMES WEBB SWIGERT, OF VERMONT

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED, EFFECTIVE OCTOBER 10, 1999:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

DEPARTMENT OF STATE

RICHARD T. MILLER, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE AS INDICATED, EFFECTIVE NOVEMBER 8, 1998:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

DEBORAH ANNE BOLTON, OF PENNSYLVANIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JAMES A. HRADSKY, OF FLORIDA
TOBY L. JARMAN, OF VIRGINIA
KAREN D. TURNER, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JAMES F. BEDNAR, OF NEW HAMPSHIRE
BETSY H. BROWN, OF NEW YORK
JOHN JULIUS CLOUTIER, OF OREGON
SHARON LEE CROMER, OF THE DISTRICT OF COLUMBIA
JOSEPH FARINELLA, OF VIRGINIA
RODGER D. GARNER, OF OREGON
THOMAS D. HOBGOOD, OF MARYLAND
LAWRENCE J. KLASSEN, OF CALIFORNIA
ROBERTA MAHONEY, OF WISCONSIN
VICKI LYNN MOORE, OF VIRGINIA
PATRICIA RAMSEY, OF VIRGINIA
DENNY F. ROBERTSON, OF THE DISTRICT OF COLUMBIA
HOWARD J. SUMKA, OF MARYLAND
MOHAMED TANAMLY, OF FLORIDA
DIANE C. TSITSOS, OF MARYLAND
PAUL CHRISTIAN TUEBNER, OF VIRGINIA
MICHAEL J. WILLIAMS, OF CALIFORNIA

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ALBERT L. LEWIS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

PHILIP C. CACCESE, 0000
DONALD E. MCLEAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RICHARD W.J. CACINI, 0000
SAMUEL H. JONES, 0000
CARLOS A. TREJO, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MELVIN LAWRENCE KAPLAN, 0000
MICHAEL EARLE FREVILLE, 0000
DONALD F. KOCHERSBERGER, 0000
GEORGE RAYMOND RIPPLINGER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS AND REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 531, 624, AND 3064:

To be major

MICHAEL* WALKER, 0000 SP

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR ORIGINAL APPOINTMENT AS PERMANENT LIMITED DUTY OFFICER TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be captain

GERALD A. CUMMINGS, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ROBERT G. BUTLER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

VITO W. JIMENEZ, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To Be Captain

MICHAEL P. TILLOTSON, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5589:

To be lieutenant

MICHAEL W. ALTISER, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be lieutenant

MELVIN J. HENDRICKS, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5589:

To be lieutenant

GLENN A. JETT, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5589:

To be lieutenant

JOSEPH T. MAHACHEK, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be lieutenant

ROBERT J. WERNER, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

MARIAN L. CELLI, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

STEPHEN M. TRAFTON, 0000

CONFIRMATIONS

Executive Nominations Confirmed by the Senate September 7, 2000:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CHARLES R. HOLLAND, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GLEN W. MOORHEAD III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. NORTON A. SCHWARTZ, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DANIEL J. PETROSKY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3036:

To be lieutenant general

MAJ. GEN. JAMES B. PEAKE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601, AND AS A SENIOR MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER TITLE 10, U.S.C., SECTION 711:

To be lieutenant general

MAJ. GEN. JOHN P. ABIZAID, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EDWARD G. ANDERSON III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BRYAN D. BROWN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. WILLIAM P. TANGNEY, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. PETER PACE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL P. DELONG, 0000

NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. WALTER F. DORAN, 0000